North Dakota Industrial Commission
Natural Gas Pipeline Grant Program Guidelines

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NGP – 1 GENERAL PROVISIONS

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NGP – 1.01 Purpose Statement. The Industrial Commission was directed by the Sixty-seventh Legislative Assembly of North Dakota to establish a natural gas pipeline grant program to allow for the transportation of natural gas for utilization in eastern North Dakota thereby expanding the North Dakota economy, increasing employment, stimulating economic activity, augmenting sources of tax revenue, and fostering economic stability.

Legislative Appropriation – Senate Bill 2345 Section 1, subsection 1. There is appropriated from federal funds derived from the state fiscal recovery fund, not otherwise appropriated, the sum of $150,000,000, or so much of the sum as may be necessary, to the Industrial Commission for the purpose of pipeline infrastructure grants to allow for the transportation of natural gas to eastern North Dakota for the period beginning December 1, 2021 and ending June 30, 2023. Of the funds appropriated in this subsection, at least $10,000,000 must be used for a project to transport natural gas to areas in Grand Forks County.

Legislative Intent Statement – Senate Bill 2345 Section 9. It is the intent of the Sixty-seventh Legislative Assembly that the Sixty-Eighth Legislative Assembly consider providing additional funding for continuing the development of high-pressure transmission pipeline infrastructure for the transportation and competitive selling of natural gas to eastern North Dakota.

NGP – 1.02 Definitions.
1. “Commission” means the North Dakota Industrial Commission.
2. "Natural gas" means residue natural gas for end use consumption.
3. “Natural Gas Pipeline Grant Program” or “NGP Program “means a grant program to expand the North Dakota economy by facilitating the development of pipeline facilities to support the transportation of natural gas for utilization in eastern North Dakota, thereby increasing employment, stimulating economic activity, augmenting sources of tax revenue, fostering economic stability, and improving the state's economy.
4. “Natural Gas Pipeline Grant Review Committee” or “Review Committee” means the Department of Mineral Resources Director, Pipeline Authority Director, Bank of North Dakota President or his designee, Clean Sustainable Energy Authority Director, Department of Commerce Commissioner. The Pipeline Authority Director shall serve as Chair of the Review Committee.
5. "Pipeline facilities" means pipelines, pumps, compressors, storage, and all other facilities, structures, and properties incidental and necessary or useful in the interconnection of high-pressure pipelines or the transportation of natural gas commodities to points of transfer located within and outside the state. “Pipeline facilities” do not include local distribution infrastructure.

6. “Transportation Rate Buy Down” means all grant funding shall be used exclusively for the purpose of offsetting project capital expenditures resulting in a lower natural gas transportation rate while not increasing the rate of return on equity for the recipient.

NGP – 1.03 Costs of Application Preparation. The Commission is not liable for any cost, including costs of preparation of applications, incurred by applicants prior to issuance of a contract. The Commission will be liable only for those costs and expenses expressly identified by a contract/agreement.

NGP – 1.04 Acceptance and Rejection of Applications. These guidelines do not commit the Commission to award funds. The Commission reserves the right to accept or reject any or all applications received as a result of the NGP Program and to negotiate with any and all qualified applicants. An application must have received a favorable Natural Gas Pipeline Grant Review Committee recommendation prior to consideration by the Commission.

NGP – 1.05 Reservation of Funds. The Commission is not obligated to award the total amount of funds made available under this Program.

NGP – 2 Eligibility

NGP – 2.01 Eligible Applicants
NGP – 2.02 Eligibility Criteria

NGP – 2.01 Eligible Applicants. Any corporation, partnership, cooperative, association or other appropriate entity, or consortium of such parties, may apply for a grant under this NGP Program. Any interested person in doubt as to eligibility should contact the Commission.

NGP – 2.02 Eligibility Criteria. Any grant application approved by the Commission for funding must:
1. Be recommended by the Natural Gas Pipeline Grant Review Committee.
2. Upon grant award approval, the recipient must demonstrate within five months that sufficient shipper commitments on the pipeline have been obtained.
3. Have a minimum 60% private sector funding.
4. Achieve the priorities and purposes of the NGP Program.
5. Operate as a common carrier pipeline.
6. Certify funds be used exclusively to lower or “buy down” the transport rate through a fixed return on equity basis.

NGP – 3 Application Requirements

NGP – 3.01 Application Documents
NGP – 3.02 Application Deadlines

NGP – 3.01 Application Documents. The application packet must contain the following:
• Application form.
• Tax liability statement.
Transportation Rate Buy Down Certification.
Confidentiality Request and Supporting Appendices, including detailed budget information, scheduled expenditures, and customer interest.

An application must be direct, concise, and informative. The application form to be completed is available on the Commission’s website. Each page shall be numbered. The application packet should be submitted electronically ndicinfo@nd.gov and two paper copies are to be submitted to the following address.

North Dakota Industrial Commission
ATTN: Natural Gas Pipeline Program
State Capitol – Fourteenth Floor
600 East Boulevard, Bismarck, North Dakota 58505

The application form must include the information detailed below. **Note: This is a public document.**

1. Title Page. A title page setting forth the project title, applicant, point of contact, date of application, proposed project duration, telephone number, email address, mailing address, and amount of the request.
2. Table of contents.
3. Abstract. A one-page abstract of the project stating its objective, expected results, duration, total project cost, and participants.
4. Project Description. A detailed description of the project, including its objectives, proposed route map(s), and project timeline including proposed reporting.
5. Budget. Details about the project costs and an explanation of which of these costs will be supported by the Program and in what amount. Information should include the current grant amount requested (from ARPA funds), future funding request (as per section 9 of SB 2345), and total project costs demonstrating the amount of match funding. Preference will be given to applications with a higher proposed match ratio.
6. Qualifications. A summary of prior work similar to the project conducted by the applicant and other participants. This should also include summary of the experience and qualifications pertinent to the project of the applicant, key personnel, and other participants in the project.
7. Expansion Capabilities.
8. Gas Quality Considerations.
9. Standards of Success. The standards by which the success of the project is to be measured and the value to North Dakota, including a description of how project may support oil and gas development in North Dakota.
10. Project Management Overview. A description of how the applicant will manage and oversee the project to ensure it is being carried out on schedule and in a manner that best ensures its objectives will be met, and a description of the milestones to be used during the course of the project.
11. Regulatory Requirements. An overview of regulatory requirements to be met at the local, state, and federal level.
12. State Programs and Incentives. Any programs or incentives from the State that the applicant has participated in within the last five years should be listed below, along with the timeframe and value.

Confidentiality Request. Any information in the application which the applicant wishes to be designated confidential by the Commission should be placed in an appendix to protect the information from public disclosure while allowing public access to the rest of the application. Such information must be clearly labeled as confidential, and the applicant must explain why the information meets the confidentiality criteria as described in NGP – 5.

Examples include scheduled expenditures, detailed budget information and narrative, and demonstration of customer interest such as binding or non-binding expressions of interest, letters of support, etc.
NGP – 3.02 Application Deadlines. Applications must be delivered to the Industrial Commission or postmarked on or before March 1, 2022 for consideration of the $10 million pool of funds established for Grand Forks County and on or before May 1, 2022 for consideration of the remaining $140 million pool of funds.

NGP – 4 Review and Award Process

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NGP – 4.01 Application Evaluation – Criteria. All applications will be evaluated according to the project’s compatibility to following criteria established by the Commission.

- Degree to which the application meets the Program objectives:
  - Expanding the North Dakota economy by facilitating the development of pipeline facilities to support the transportation of natural gas for utilization in eastern North Dakota.
  - Increasing employment.
  - Stimulating economic activity.
  - Augmenting sources of tax revenue.
  - Fostering economic stability.

Priority will be given to applications that:

- Clearly define how grant funds will lower or “buy down” the transport rate through a fixed return on equity basis.
- Have a higher proposed match ratio.
- Have a higher level of potential customer support.

NGP – 4.02 Application Review – Initial Review. Upon receipt of an application, the Commission staff and/or the Review Committee Chair will determine if the application meets eligibility requirements and is complete. During this initial review the Commission staff or Review Committee Chair may seek additional information from the applicant regarding the application including, but not limited to, application completeness, clarification of budget and matching funds, feasibility of the project meeting timelines, confidentiality request, and viability of the project. Any additional information provided during the initial review shall be included as part of the application. If it is determined that the application meets eligibility requirements and is complete, the application will be referred to the Review Committee.

NGP – 4.03 Application Review – Committee Recommendation and Commission Decision. The Review Committee shall assess the merits of the applications and submit their recommendation(s) for funding to the Commission at the next available Commission meeting.

NGP – 4.04 Contracts. A grantee must enter into a contract with the Commission and submit any supporting documentation required by the Commission. The application will form an integral part of the
contract. The Commission shall provide a proposed contract to grantee. If a contract is not executed by the grantee within thirty days, the award will be canceled unless an extension of time is granted by the Commission. Work carried out under a contract is the work of the grantee and not the Commission. The Commission will not enter into a contract until all eligibility criteria are met as defined in 2.02.

**NGP – 4.05 Disbursement of Funds.** Funds will be disbursed only after a contract has been executed. All disbursements will be made on a reimbursement basis for documented costs as outlined in the contract. All disbursements may be withheld if the Commission deems the grantee has not complied with these guidelines or the contract. Documentation demonstrating the expenditure of matching funds must be provided prior to disbursement. Costs prior to Commission approval of an application are not eligible for reimbursement.

**NGP – 4.06 Project Duration.** The project must be completed within the time specified in the contract. If the project cannot be completed within the time specified in the contract, the availability of Federal or State funds may be impacted and the Commission may choose to terminate the contract. However, the recipient may make a written request to the Commission for an extension of up to one year. The request must set forth the specific additional time requested and the reasons why an extension is needed. Upon receipt of the request, the Commission shall decide whether to grant the request based on the documented need and the availability of funds. Additional extensions may be sought under the same procedure described above but may only be granted based on availability of funds and the extent to which the recipient proves that factors beyond the recipient’s control are the cause of its inability to complete the project on time and that since receiving the first extension the recipient has been diligent in all respects in trying to complete the project on time.

**NGP – 4.07 Availability of Funds.** If the work under a contract extends beyond the legislatively approved appropriation period of June 30, 2023, any further disbursements of the grant award by the Commission to the recipient cannot be guaranteed and will be made only if sufficient funds are appropriated in the new biennium to satisfy the contract.

**NGP – 4.08 Partially Funded or Delayed Projects.** If the Commission award is less than the amount requested, the applicant may decline the award or proceed with the project as proposed, notwithstanding the reduced award. Failure of a recipient to proceed with the project in a timely manner or comply with contract terms or these guidelines entitles the Commission to cancel the award and contract.

**NGP – 4.09 Contract Modifications.** If at any time after entering a contract the grantee desires to change any term of the contract, the grantee shall make a written request to the Commission. The request must set forth the specific change desired and the reasons why the change is needed. Upon receipt of the request, the Commission shall review the requested change and determine if it is substantive. If the requested change is substantive the Commission may use the Review Committee to analyze the request. After completion of their review, the Commission shall decide whether to grant the request.

**NGP – 4.10 Reporting Requirements.** A grantee has the following reporting obligations:

1. **Interim reports.** A grantee shall submit to the Commission reports summarizing the project’s accomplishments and expenditures to date. The timing of the reports will be specified in the contract.
2. **Special reports.** If substantial progress on a project occurs earlier than anticipated, the grantee shall immediately submit to the Commission a report explaining the accomplishment.
3. **Final report.** A comprehensive final report must be submitted to the Commission by all grantees within the time specified in the contract. This report must include a single page project summary describing the purpose of the project, the project’s results, the total costs of the project, and how the project met or failed to meet the proposed standards of success.
NGP – 5 Public Information – Access to Records

NGP – 5.01 Designation of Confidential Material

NGP – 5.01 Designation of Confidential Material. A person or entity may file a request with the Commission to have material designated as confidential. The request for confidentiality should be strictly limited to information that meets the criteria to be identified as trade secrets or, commercial, financial, or proprietary information. The Commission shall examine the request and determine whether the information is relevant to the matter at hand and is a trade secret, or proprietary, commercial and financial information under the definitions in N.D.C.C. Section 44-04-18.4.

The request is confidential and must contain any information required by the Commission and must include at least the following:

1. A general description of the nature of the information sought to be protected.
2. An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons.
3. An explanation of why the information is not readily ascertainable by proper means of other persons.
4. A general description of any person that may obtain economic value from disclosure or use of the information, and how the person may obtain this value.
5. A description of the efforts used to maintain the secrecy of the information.

If the Commission determines the information is either not relevant or not a trade secret or proprietary, commercial or financial information, the Commission shall notify the requester and the requester may ask for the return of the information and the confidentiality request within ten days of the notice. If no return is sought, the information and confidentiality request are public record. Until such time as the Commission meets and reviews the request for confidentiality, the portions of the application for which confidentiality is being requested shall be held, on a provisional basis, as confidential.

Industrial Commission Approved: November 29, 2021