

**BASIN ELECTRIC
POWER COOPERATIVE**

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April 23, 2012

Mr. Darrell Nitschke
Executive Secretary
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck ND 58505-0480

Re: Basin Electric Power Cooperative
Williston Tie Project Siting Application
Case No. PU-11-692

Dear Mr. Nitschke:

Enclosed for filing in the above referenced matter are an original and ten (10) copies of the proposed Findings of Fact, Conclusions of Law and Order.

Should you have any questions, please do not hesitate to contact me at cjacobson@bepc.com or (701) 557-5413.

Sincerely,

A handwritten signature in blue ink that reads "Casey J. Jacobson".

Casey J. Jacobson
Attorney

cjj/ds
enclosure

cc: Judge Allen C. Hoberg (w/enclosure via e-mail)
Mr. Mark E. Gruman (w/enclosure via e-mail)
Mr. Christopher A. Marohl (w/enclosure via e-mail)

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Basin Electric Power Cooperative
Williston Tie Project
Siting Application**

Case No. PU-11-692

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

[Date]

Appearances

Casey J. Jacobson, Attorney, Basin Electric Power Cooperative, 1717 East Interstate Avenue, Bismarck, North Dakota 58503, on behalf of Basin Electric Power Cooperative.

Mark E. Gruman, Counsel, North Dakota Public Service Commission, State Capitol, 600 East Boulevard Avenue, Bismarck, North Dakota 58505, on behalf of the Public Service Commission.

Allen C. Hoberg, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street, Suite 303, Bismarck, North Dakota 58501-1882, as Substantive Hearing Officer.

Preliminary Statement

On November 8, 2011, Basin Electric submitted a letter to the North Dakota Public Service Commission notifying the Commission of its intent to construct the Williston Tie Project (Project). The Project will consist of three related segments of primarily double circuited transmission line. The first segment (345/115 kV) begins 1.62 miles north of the anticipated location of a new substation (Judson Substation) and terminates at the Judson Substation location. The second segment (230/115 kV) begins at the Judson Substation location and proceeds easterly for 1.9 miles. The third segment (230 kV) of the Project begins at the eastern

terminal of the 230/115 kV segment and proceeds north for approximately 0.2 miles terminating at the existing Western Area Power Administration (Western) Substation. Basin Electric requested the Commission shorten the one-year waiting period between filing a Letter of Intent and the filing of an Application for a Certificate of Corridor Compatibility.

By Motion dated December 7, 2011, the Commission acknowledged the Letter of Intent, shortened the one-year waiting period between filing a Letter of Intent and a Siting Application to 60 days, assessed a filing fee of \$15,000.00, and assigned the Project Case No. PU-11-692.

On January 20, 2011, Basin Electric submitted its combined Applications for a Waiver of Procedures and Timelines, Certificate of Corridor Compatibility, and Route Permit for the Williston Tie Project (Application).

By Motion dated March 6, 2012, the Public Service Commission appointed an Administrative Law Judge to preside as a Substantive Hearing Officer.

On March 9, 2012, the Public Service Commission issued a Notice of Filing and Notice of Hearing on Basin Electric's Application

The Notice of Hearing identified the following issues to be considered:

1. Will the location, construction and operation of the proposed facilities produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?
2. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?
3. Will the proposed facility locations minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

4. Is it appropriate for the Commission to waive procedures and time schedules as requested, including the request for a single consolidated application for corridor certificate and route permit?

On March 22, 2012, the North Dakota Department of Health filed comments regarding the proposed Williston Tie Project.

On March 30, 2012, Basin Electric filed correspondence from the State Historical Society of North Dakota with the Public Service Commission.

On April 10, 2012, at 10:00 a.m., a public hearing was held in Williston, North Dakota. Basin Electric presented two witnesses and _____ exhibits, including a Certification Relating to Order Provisions – Electric Transmission Line Siting, regarding certain conditions to which Basin Electric agreed.

On April 10, 2012, after the public hearing, the Administrative Law Judge and Public Service Commission staff toured the proposed location of the Williston Tie Project.

On April ____, 2012, in response to the Administrative Law Judge's request at the hearing, Basin Electric submitted the Williams County Commission's Approval of the Williston Tie Project.

Having allowed all interested persons an opportunity to be heard and having heard, reviewed, and considered all testimony and evidence presented, the Commission makes the following:

Findings of Fact

1. Basin Electric is a regional wholesale electric generation and transmission cooperative, organized under the laws of the state of North Dakota, and headquartered in Bismarck, North Dakota. Basin Electric provides power to more than 134 member distribution systems serving more than 2.8 million consumers in nine states, including North Dakota. Mountrail-Williams Electric Cooperative (**Mountrail-Williams**) is the member distribution

cooperative serving the Project area. Mountrail-Williams' Stateline Project schedule has an in-service date of fall of 2012.

2. Basin Electric proposes to construct the Williston Tie Project which will consist of 0.2 miles of single circuit 230 kV, 1.9 miles of double circuit 230/115 kV and 1.62 miles of 345/115 kV overhead electrical transmission line.
3. The Williston Tie Project will be owned and maintained by Basin Electric; however, the 115 kV conductor portions will be installed, owned and operated by Mountrail-Williams. The entire transmission line will be located in Williams County.
4. The total cost of the Project is estimated to be \$4 million.
5. The proposed transmission line will be designed and constructed to meet or surpass all relevant state codes and standards of the Rural Utilities Service, the National Electric Safety Code, the Institute of Electrical and Electronics Engineers, the American Society of Civil Engineers, the American Institute of Steel Construction, the American Concrete Institute, Basin Electric standards, and in accordance with Avian Power Line Interaction Committee suggested practices for raptor-safe design.
6. The transmission line will be constructed on self-supporting galvanized steel single-pole structures. The typical 345/115 kV double-circuit structure will be around 130 feet tall. The typical 230/115 kV double-circuit structure will be 112 feet tall. The 230 kV single-circuit structures will be 113 feet tall.
7. The transmission line will be three-phase, meaning it uses three current-carrying conductors. The 345 kV segment's conductor will be 1.8 inches in diameter with 76 strands of aluminum and 19 strands of steel. The 230 kV segment's conductor will be 1.3 inches in diameter with 54 strands of aluminum and seven strands of steel. Above the conductors will be one 0.5-inch diameter optical ground wire and one 0.5-inch diameter static ground wire. The line will require approximately six to seven structures per mile, depending on terrain and other design actors. The right-of-way will be 80 to 150 feet in width.
8. Basin Electric states that it has complied with all local land use and planning ordinances.

9. Basin Electric states that in 2011 and 2012, Basin Electric and Mountrail-Williams met with local governmental units to provide a project overview and receive comments.
10. In 2011, Basin Electric and Mountrail-Williams contacted 41 local, state and federal agencies for input into the Project. Ten Native American Tribes were also contacted to solicit their input.
11. A federal environmental assessment is being prepared for the Project by the Western Area Power Administration. Basin Electric will file a copy of the final document and any resulting findings with the Commission prior to beginning construction.
12. Section 49-22-16(3) of the North Dakota Century Code provides that an applicant for a route permit from the Commission shall obtain all permits that may be required to construct and operate the transmission facility.
13. Basin Electric's application and supplemental filings include a listing of permits and approvals that must be obtained for the proposed transmission facility and the status of each of these permits or approvals.
14. North Dakota Administrative Code Chapter 69-06-08 sets forth certain criteria to guide the Commission in evaluating the suitability of granting an application for a Certificate of Corridor Compatibility and a Route Permit for a transmission facility. The criteria as set forth in Section 69-06-08-02 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria and Policy Criteria.
15. North Dakota Century Code 69-06-04-02 provides that the width of the corridor must be ten percent of the length of the line, not less than one mile, and not more than six miles in width.
16. North Dakota Administrative Code Chapter 69-06-08 provides that Exclusion and Avoidance Areas may be located within a corridor, but at no given point shall such an area encompass more than fifty percent of the corridor width, unless there is no reasonable alternative.

17. North Dakota Administrative Code Section 69-06-08-02 provides that a transmission facility route must not be sited within an Exclusion Area.
18. North Dakota Administrative Code 69-06-08-01(2) provides that a transmission facility route must not be sited within an Avoidance Area unless the Applicant shows under the circumstances there are no reasonable alternatives. In determining whether an Avoidance Area should be designated for a facility, the Commission may consider, among other things, the proposed management of adverse impacts; the orderly siting of facilities; system reliability and integrity; the efficient use of resources; and alternative routes. Economic considerations alone shall not justify approval of these areas.
19. In accordance with the Commission's Selection Criteria, a corridor or route may be approved if it is demonstrated that any significant adverse impacts that will result from the location, construction and maintenance of the transmission facility will be of an acceptable minimum or managed at an acceptable minimum.
20. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits from the adoption of certain policies and practices.
21. Basin Electric evaluated a Corridor width of 150 feet for the 345/115 kV double-circuit segment, 100 feet corridor width for the 230/115 kV double-circuit segment and 80 feet for the 230 kV single-circuit segment.
22. Basin Electric submitted substantial information in its Application and in testimony at the April 10, 2012, hearing concerning compliance with the Commission Exclusion and Avoidance Area criteria as applied to the proposed Corridor and Route.
23. The proposed route does not include any Exclusion Areas.
24. No rare or unique resources have been identified along the route. It is not anticipated that the proposed transmission facility will directly impact rare and unique resources.

25. The proposed route does include Avoidance Areas. There are five inhabited rural residences and seven places of business within 500 feet of the proposed route. There is no reasonable alternative to the proposed route.
26. At certain points within the corridor, these Avoidance Areas encompass more than fifty percent of the corridor width. However, due to the fact that the Williston Tie Project is of such short distance, coupled with the plan of Basin Electric and Mountrail-Williams to double-circuit the structures responding to the needs of both cooperatives caused by very extensive load growth, there is no reasonable alternative to the proposed route.
27. The proposed route demonstrates the proposed management of adverse impacts, by locating the route immediately alongside Western's existing 120-foot utility easement and the greatest distance practicable between existing commercial property and residences; therefore minimizing potential adverse impacts to the public.
28. The proposed route demonstrates the orderly siting of facilities. The route incorporates the input from the members of the public and the landowners. It also reflects joint planning by Basin Electric and Mountrail-Williams.
29. The proposed route demonstrates system reliability and integrity by providing a high voltage connection from the proposed AVS-Neset 345 kV high-capacity transmission line to the existing Williston 230 kV Substation. This connection will become the primary path for the delivery of electric power into the Williston area which is needed as the existing system lacks sufficient capacity.
30. The proposed route demonstrates the effective use of resources. The plan to double-circuit structures with longer span capabilities reduces impacts to landowners and minimizes use of resources compared to a single-circuit 115 kV line plus a 345 or 230 kV line.
31. The proposed route is not based solely on economic considerations. The extensive existing and planned commercial and industrial development in the area through which this transmission project is planned left little opportunity for any alternative routes.

32. A wetland delineation was conducted along the proposed route. No permanent impacts to the wetlands are anticipated as a result of project construction. Structures would not be placed in wetland areas. Basin Electric will provide a 100-foot buffer zone around wetlands, whenever feasible, to prevent impacts; wetland areas along the line route will be avoided or spanned. Basin Electric will implement mitigation measures to minimize indirect impacts to surface water and wetland resources, such as erosion and sedimentation control Best Management Practices. Basin Electric will require its contractor to secure required storm-water permits for the project from the North Dakota Department of Health.

33. A Class I file search and Class III cultural resource survey (pedestrian survey) were conducted along the proposed route. A Class III cultural resource survey (pedestrian survey) was conducted along the proposed route. The survey area consisted of a 150-foot wide corridor centered on the proposed route centerline. There were prehistoric and historic sites identified during the Class III surveys. Basin Electric will provide a 50 foot buffer zone around the identified sites within the Project's right-of-way. The sites will be protected during construction and will be avoided by placement of the structures outside of the identified sites.

34. Basin Electric submitted substantial information in its Application and through its testimony that any significant adverse effects from the location, construction, and maintenance of the transmission facility as they relate to the Selection Criteria listed at Section 69-06-08-1(3) North Dakota Administrative Code, will be at an acceptable minimum or will be managed and maintained at an acceptable minimum.

35. Basin Electric submitted substantial information in its Application and through its testimony to demonstrate its commitment to maximize the benefits of the proposed transmission facility to meet the Policy Criteria set forth in Section 69-06-08-1(4) of the North Dakota Administrative Code.

Conclusions of Law

1. The Commission has jurisdiction over this proceeding under Chapter 49-22 of the North Dakota Century Code.
2. The Williston Tie Project proposed by Basin Electric is a transmission facility as defined in Section 49-22-03(12) of the North Dakota Century Code.
3. The location, construction, and operation of the proposed transmission facility will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
4. The Application submitted by Basin Electric meets the corridor and route evaluation criteria required by Chapter 49-22 of the North Dakota Century Code.
5. The proposed transmission facility corridor and route will minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.
6. The proposed transmission facility is compatible with the environmental preservation and the efficient use of resources.
7. The requested waivers of procedures and time schedules are justified based upon: the minimal impacts on the environment and the welfare of the citizens of North Dakota; the lack of objection to the proposed transmission facility by federal, state, and local government bodies and agencies or by the landowners along the route; and the objective to have a reliable integrated transmission system in North Dakota.
8. The proposed transmission facility is of such length, design, location, and purpose that it will produce minimal adverse effects.

From the foregoing Findings of Fact and Conclusions of Law, the Commission now makes its:

Order

The Commission orders:

1. Basin Electric's Application for a Waiver of Procedures and Timelines is granted.
2. A Certificate of Corridor Compatibility for Transmission Facility Corridor No. _____ is issued to Basin Electric, designating a Corridor for its proposed transmission facility as described in Basin Electric's Application and as presented at the hearing.
3. A Route Permit for Transmission Facility No. _____ is issued to Basin Electric granting authority to construct the proposed transmission line as described in the Application and presented at the hearing.
4. Basin Electric shall conduct a preconstruction conference prior to commencement of any construction, which must include a Basin Electric representative, its construction supervisor, and a representative of Commission staff to ensure that Basin Electric fully understands the conditions set forth in this Order.
5. Basin Electric will comply with the rules and regulations of all other agencies having jurisdiction over any phase of the proposed transmission facility. Prior to commencing construction of any phase of the proposed project, Basin Electric shall obtain all other necessary approvals and permits for construction of such phase and provide copies to the Commission prior to the construction of each such phase.
6. Basin Electric shall inform the Commission of its intent to start construction on the transmission facility prior to the commencement of construction, and once construction has started, Basin Electric shall keep the Commission updated of construction activities on a weekly basis.

7. Basin Electric shall construct and operate the transmission facility in the manner described in its Application and at the hearing, and in accordance with all applicable safety requirements.
8. Basin Electric shall promptly report to the Commission the presence in the permit area of any critical habitat of threatened or endangered species, or of bald or golden eagles that Basin Electric becomes aware of and that were not previously reported to the Commission.
9. If any cultural resource, paleontological, archeological, historical, or grave site is discovered during construction, earth disturbing activities in the immediate vicinity of the discovery, Basin Electric agrees construction must be halted. The resource must be marked, preserved, and protected from further disturbances until a professional examination can be made and consultation with the State Historical Preservation Office. A report of such examination must be filed with the Commission, and clearance to proceed must be given by the Commission.
10. Basin Electric agrees that all pre-existing roads and lanes used during construction must be restored to a condition that will accommodate their previous use and areas used as temporary roads during construction must be restored to their original condition.
11. Construction must be suspended when weather conditions are such that construction activities will cause irreparable damage, unless adequate protection measures approved by the Commission are taken.
12. Basin Electric will comply with the Commission's Tree and Shrub Mitigation Specifications.
13. Basin Electric agrees that reclamation along the right-of-way shall be continuous and coordinated with construction.

14. Reclamation, fertilization, and reseeding is to be done by Basin Electric according to the Williams County Natural Resource Conservation Service recommendations for CRP, native prairie, and other non-cropped lands unless otherwise specified by the landowner and approved by the Commission.
15. Basin Electric's obligation for reclamation and maintenance of the right-of-way shall continue throughout the life of the transmission facilities.
16. Basin Electric shall work with landowners and residents to mitigate any increase in television and residential radio interference that results from the path of the transmission line.
17. Basin Electric shall repair or replace all fences and gates removed or damaged during all phases of construction and operation of the proposed transmission facilities.
18. Basin Electric shall obtain approval from the Commission or from Commission staff prior to any changes in structure locations.
19. Basin Electric shall provide the Commission with a copy of the facility alignment plan and profile drawings showing the facility as built (hard copy and electronic versions), and an electronic version of the as-built facility that can be imported into ESRI GIS mapping software, within three months of the completion of the construction.
20. The authorizations granted by the Corridor Certificate and Route Permit are subject to modification by order of the Commission if deemed necessary to further protect the public or the environment.

PUBLIC SERVICE COMMISSION

Tony Clark
Commissioner

Kevin Cramer
President

Brian Kalk
Commissioner