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**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

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**Basin Electric Power Cooperative
345/230 kV Transmission Line - Williams County
Siting Application**

Case No. PU-11-692

OAH File No. 20120085

**RECOMMENDED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

May 1, 2012

Appearances

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

Mark E. Gruman, Counsel, North Dakota Public Service Commission.

Chris Marohl, Staff, North Dakota Public Service Commission

Allen C. Hoberg, Administrative Law Judge, Substantive Hearing Officer, Office of Administrative Hearings..

Preliminary Statement

On November 8, 2011, Basin Electric Power Cooperative ("Basin Electric") submitted a letter to the North Dakota Public Service Commission ("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) 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.

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

On March 6, 2012, the Commission appointed an Administrative Law Judge from the Office of Administrative Hearings to preside as a Substantive Hearing Officer ("Hearing Officer"). On March 6, 2012, Administrative Law Judge Allen C. Hoberg was designated to preside.

On March 9, 2012, the Hearing Officer issued a Notice of Filing and Notice of Hearing on Basin Electric's Applications, scheduling a public hearing to be held on April 10, 2012 at the Williams County Courthouse, 205 East Broadway, Williston, North Dakota. The Notice of Hearing identified the following issues:

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 April 10, 2012, the public hearing was held as scheduled.

Having allowed all interested persons an opportunity to be heard and having heard, reviewed, and considered all the evidence presented, the Hearing Officer 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.
2. 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.
3. Basin Electric proposes to construct the 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.

4. The 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. The total cost of the Project is estimated to be \$4 million.
5. The proposed transmission line ("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 line will be constructed on self-supporting galvanized steel single-pole structures. The typical 345/115 kV double-circuit structure will be approximately 130 feet tall. The typical 230/115 kV double-circuit structure will be approximately 112 feet tall. The 230 kV single-circuit structures will be approximately 113 feet tall.
7. The line will be three-phase, with three current-carrying conductors. The 345 kV segment's conductors will be 1.8 inches in diameter with 76 strands of aluminum and 19 strands of steel. The 230 kV segment's conductors 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 factors. 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, and 10 Native American Tribes to solicit input regarding the Project.
11. A federal environmental assessment is being prepared for the Project by Western. Basin Electric will file a copy of the final document and any resulting findings with the Commission prior to beginning construction.
12. North Dakota Century Code section 49-22-16(3) 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 Administrative Code section 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, unless otherwise designated by the Commission.
16. North Dakota Administrative Code section 69-06-08-02 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 section 69-06-08-02(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 information in its Applications and in testimony at the April 10, 2012, hearing concerning compliance with the Commission Exclusion and Avoidance Area criteria as applied to the Project's proposed corridor and route.
23. The Project's proposed route does not include any Exclusion Areas.

24. The Project's proposed route does include Avoidance Areas. At certain points within the corridor, the Avoidance Areas encompass more than fifty percent of the corridor width. There are five inhabited rural residences and seven places of business within 500 feet of the proposed project route.
25. The Project's proposed route demonstrates the proposed management of adverse impacts by locating the route immediately alongside Western's existing 120-foot utility easement with the greatest distance practicable between existing commercial property and residences; therefore minimizing potential adverse impacts to the public.
26. The Project's 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.
27. The Project's proposed route demonstrates system reliability and integrity by providing a high voltage connection from the proposed Antelope Valley Station – Nessel 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.
28. The Project's 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.
29. The Project's proposed route is not based solely on economic considerations. The extensive existing and planned commercial and industrial development in the area through which the Project is planned left little opportunity for any alternative routes.
30. Further evidence demonstrates that there is no reasonable alternative to the Project's proposed route. The immediate area is congested and experiencing rapid growth. Growth is anticipated to continue. The landowner preferred route is the Project's proposed route. There is one landowner whose residence is within 500 feet of the Project's proposed route that did not sign a waiver. No members of the public testified at the hearing. There appears to be no reasonable alternative to the Project's proposed route.
31. A wetland delineation was conducted along the Project's proposed route. No permanent impacts to the wetlands are anticipated as a result of Project construction. Structures will 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.

32. A Class I file search and Class III cultural resource survey (pedestrian survey) were conducted along the Project's proposed route. The Class III survey area consisted of a 150-foot wide corridor centered on the Project's proposed route centerline. There were prehistoric and historic sites identified during the pedestrian survey. 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.
33. Basin Electric submitted information in its Applications and through hearing 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 North Dakota Administrative Code section 69-06-08-02(3), will be at an acceptable minimum or will be managed and maintained at an acceptable minimum.
34. Basin Electric submitted information in its Applications and through hearing testimony to demonstrate its commitment to maximize the benefits of the proposed transmission facility to meet the Policy Criteria set forth in North Dakota Administrative Code section 69-06-08-02(4).
35. Basin Electric made other representations and agreements as contained in the Certification Relating to Order Provisions – Transmission Facility Siting executed by Basin Electric on April 4, 2012 and filed with the Commission (Exhibit 2).

Conclusions of Law

1. The Commission has jurisdiction over this proceeding under North Dakota Century Code chapter 49-22.
2. The Project is a transmission facility as defined in North Dakota Century Code section 49-22-03(12).
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 Applications submitted by Basin Electric meet the corridor and route evaluation criteria required by North Dakota Century Code chapter 49-22 and North Dakota Administrative Code chapter 69-06-08.
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.

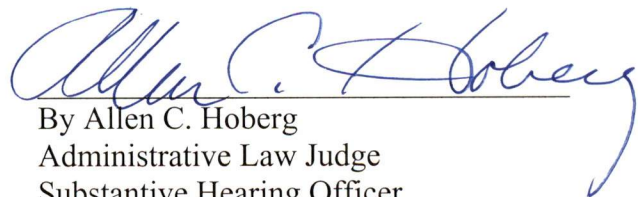
6. The proposed transmission facility is compatible with the environmental preservation and the efficient use of resources.
7. The requested waivers of procedures and time schedules are justified based upon the minimal impacts on the environment and the welfare of the citizens of North Dakota; the lack 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.
9. The Commission has jurisdiction to ensure compliance with this order through construction and post-construction monitoring.

From the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer issues the following:

Order

1. That Basin Electric's Application for a Waiver of Procedures and Timelines be granted.
2. That a Certificate of Corridor Compatibility for the proposed transmission facility be issued to Basin Electric, designating a corridor for the Project as described in Basin Electric's Applications and as presented at the hearing.
3. That a Route Permit for the proposed transmission facility be issued to Basin Electric granting authority to construct the Project as described in the Applications and presented at the hearing.
4. That the April 4, 2012, Certification Relating to Order Provisions-Transmission Facility Siting, with accompanying Tree and Shrub Mitigation Specifications, be incorporated by reference and attached to the Order issued by the Commission, except that Basin Electric may clear cut the entire width of the right-of-way through windbreaks, shelterbelts, and all other wooded areas .

State of North Dakota
Public Service Commission


By Allen C. Hoberg
Administrative Law Judge
Substantive Hearing Officer
2911 North 14th Street – Suite 303
Bismarck, North Dakota 58503
Telephone: (701) 328-3200

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CERTIFICATE OF SERVICE

The undersigned certifies that the original **RECOMMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER** was sent by electronic mail and hand delivered on the 2 day of May 2012, to:

**Illona Jeffcoat-Sacco
General Counsel
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505
ijs@nd.gov**

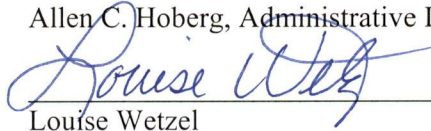
and that a true and correct copy of the above document was mailed, regular mail, on the 2 day of May 2012, to:

Casey Jacobson
Basin Electric
1717 East Interstate Avenue
Bismarck, ND 58501

and that a true and correct copy of the above document was mailed, inside mail, at the State Capitol on the 2 day of May 2012, to:

Mark Gruman
Legal Counsel
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505

State of North Dakota
Allen C. Hoberg, Administrative Law Judge



Louise Wetzel