

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Basin Electric Power Cooperative
345 kV Trans. Line – Mercer, Dunn, McKenzie, Williams
Siting Application**

Case No. PU-11-696

**Basin Electric Power Cooperative
North Killdeer Loop Phase I 345 kV Transmission
Siting Application**

Case No. PU-14-813

ORDER ON TREE AND SHRUB MITIGATION SPECIFICATIONS

September 22, 2021

Preliminary Statement

The Commission's April 23, 2014 Findings of Fact, Conclusions of Law and Order (April 23, 2014 Order) in Case No. PU-11-696 issued Certificate of Corridor Compatibility No. 152 and Route Permit No. 164 to Basin Electric Power Cooperative (Basin Electric) for the location of a 345 kV portion and 230 kV portion of a transmission facility from the Antelope Valley Station to the Neset 230 kV substation located near Tioga, North Dakota. The transmission line is located in Mercer, Dunn, Williams, McKenzie and Mountrail Counties, North Dakota. Attached to the April 23, 2014 Order was the Tree and Shrub Mitigation Specifications for the Project.

The Commission's April 29, 2015 Findings of Fact, Conclusions of Law and Order (April 29, 2015 Order) in Case No. PU-14-813 issued Certificate of Corridor Compatibility No. 167 and Route Permit No. 179 to Basin Electric for the location of a 345 kV transmission facility in McKenzie County, North Dakota. Attached to the April 29, 2015 Order was the Tree and Shrub Mitigation Specifications for the Project.

On August 16, 2017, Basin Electric filed an initial Tree/Shrub Mitigation Plan in Case No. PU-14-813.

On March 13, 2019, the Commission revised its Tree and Shrub Mitigation Specifications to update the process for mitigation reporting.

On June 15, 2021, Commission Staff sent a Notice of Noncompliance to Basin Electric suggesting that Basin Electric may wish to consider complying instead with the March 13, 2019, version of the Tree and Shrub Mitigation Specifications.

On July 15, 2021, Basin Electric responded to the June 15, 2021 Commission Staff Notice of Noncompliance.

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Discussion

The Tree and Shrub Mitigation Specifications (Specifications) attached to and made part of the Commission's April 23, 2014 and April 29, 2015 Order required that two trees be planted for every one tree removed, and that two shrubs be planted for one shrub removed. The Specifications required that tree and shrub replacements be inspected annually, in September, for three years, with the first annual inspection at least one year from the anniversary date of the original plantings. The Specifications further required that a report of each annual inspection be submitted to the Commission by October 1 of each year, documenting the condition of plantings and any woodlands work completed as of September of each year.

In its July 15, 2021 response, Basin Electric states its tree and shrub replacement efforts under Case No. PU-14-813 are combined with the tree and shrub replacement efforts under Case No. PU-11-696 because both projects were occurring simultaneously in some of the same areas. As a result of construction of the two projects, 18,539 trees/shrubs were removed. Basin Electric has shown that it planted approximately 37,547 trees/shrubs.

The Commission's March 13, 2019 Specifications were conceived to be goal or purpose oriented to create sustainable plantings, appropriate for the local soil and growing conditions that will provide long-term benefits to landowners, farmers and ranchers, the community, wildlife and the environment. In lieu of annual reporting for three years, the Commission's March 13, 2019 Specifications requires one final report filed by the company after two years that details the company's tree and shrub mitigation efforts and describes how the company's mitigation achieved the purpose stated above.

Basin Electric has indicated a desire to comply with the March 13, 2019 version of the Tree and Shrub Mitigation Specifications instead of the April 29, 2015 Tree and Shrub Mitigation Specifications in Case No. PU-14-813. Basin Electric also requests that the Commission amend the April 23, 2014 Order in PU-11-696 to incorporate the March 13, 2019 version of the Tree and Shrub Mitigation Specifications.

Basin Electric also proposes to provide a final combined tree and shrub mitigation report by October 31, 2021, which will address the requirements of the March 13, 2019 version of the Tree and Shrub Mitigation Specifications in both the PU-14-813 and PU-11-696 dockets.

Having considered this matter, the Commission issues the following:

Order

The Commission Orders:

1. The Commission's April 29, 2015 Fact, Conclusions of Law and Order in Case No. PU-14-813 is amended to replace the Tree and Shrub Mitigation Specifications adopted in that Order with the March 13, 2019 version of the Tree and Shrub Mitigation Specifications, attached to and made part of this Order.

2. The Commission's April 23, 2014 Fact, Conclusions of Law and Order in Case No. PU-11-696 is amended to replace the Tree and Shrub Mitigation Specifications adopted in that Order with the March 13, 2019 version of the Tree and Shrub Mitigation Specifications, attached to and made part of this Order.

PUBLIC SERVICE COMMISSION



Randy Christmann
Commissioner



Julie Fedorchak
Chair



Brian Kroshus
Commissioner

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Tree and Shrub Mitigation Specifications

Inventory

Prior to cutting or clearing trees or shrubs for construction:

- All trees one-inch or greater in diameter at breast height must be inventoried to record the location, number, and species.
- All shrubs and all coniferous trees of any diameter must be inventoried to record the location, number, and species.

Clearing

The maximum width of tree and shrub removal is 50 feet, unless otherwise approved by the Commission.

Replacement

1. Landowners must be given the option to have trees and shrubs that are removed from their property replaced on their property. The landowner may waive this option in writing. If the landowner waives this option, the company shall plant replacement trees and shrubs in an alternate location in the same region, if practical.
2. Trees and shrubs must be replaced on a minimum two-to-one basis. The company shall develop a Tree and Shrub Mitigation Plan (Plan) in consultation with landowners who are seeking replacement trees and shrubs and in accordance with USDA-NRCS-North Dakota Field Office Technical Guide: Windbreak and Woodland Tree Care and Management. The guidelines outlined in the Technical Guide shall be followed until filing of the Plan summary outlined in number 5 below.
3. The purpose of the company's Tree and Shrub Mitigation Plan is to create sustainable plantings, appropriate for the local soil and growing conditions that will provide long-term benefit to landowners, farmers and ranchers, the community, wildlife and the environment.
4. The Plan, including the proposed number, variety, type, location, and approximate date for plantings, shall be filed with and approved by the Commission.

5. Two years after completion of the plan, the company must file a summary documenting how the plan achieved the purpose outlined in number 3 above. The summary must also report the number of surviving replacement trees and shrubs.
6. The Commission will consider, on a limited basis as conditions warrant, mitigation plans that provide long-term wildlife habitat and conservation benefits but do not involve the replanting of trees and shrubs.