

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Northern Divide Wind, LLC  
345 kV Transmission Line  
Burke & Mountrail Counties  
Siting Application**

**Case No. PU-19-377**

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

**May \_\_\_\_, 2020**

**Appearances**

Commissioners Brian Kroshus, Julie Fedorchak, and Randy Christmann.

Casey A. Furey, Attorney at Law, Crowley Fleck PLLP, 100 West Broadway, Suite 250, Bismarck, North Dakota 58502 on behalf of the Applicant, Northern Divide Wind, LLC.

Brian Schmidt, Attorney at Law, Smith Porsborg Schweigert Armstrong Moldenhauer & Smith, 122 East Broadway Ave., Bismarck, North Dakota 58502, Special Assistant Attorney General on behalf of the North Dakota Public Service Commission.

Kevin Pranis, 81 East Little Canada Road, St. Paul, Minnesota 55117, representative of Intervenor Laborers District Council of Minnesota and North Dakota.

Hope L. Hogan, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14<sup>th</sup> Street, Suite 303, Bismarck, North Dakota 58503, as Procedural Hearing Officer.

**Preliminary Statement**

On December 05, 2019, in Case No. PU-19-377, Northern Divide Wind, LLC (“Northern Divide Wind”) filed a combined Consolidated Application for a Certificate of Corridor Compatibility and Route Permit (“Application”) concerning an approximately 41-mile long 345 kilovolt (“kV”) electric transmission facility and associated facilities (“Transmission Project”) in Burke and Mountrail Counties, North Dakota, which extends from the Wind Project collection substation in Burke County to Basin Electric Power Cooperative’s (“Basin”) Tande Substation located in Mountrail County, docketed as Docket No. 1 in Case No. PU-19-377.

On December 05, 2019, in Case No. PU-19-376, Northern Divide Wind also filed an Application for a Certificate of Site Compatibility for an approximately 200 megawatt wind energy conversion facility known as the Northern Divide Wind Energy Center (“Wind Project”), to be located in Burke County, North Dakota, docketed as Docket No. 1 in Case No. PU-19-376.

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Northern Divide Wind, LLC  
Casey Furey, Crowley Fleck, PLLP

On February 19, 2020, the North Dakota Public Service Commission (“Commission”) consolidated Case Nos. PU-19-376 and PU-19-377 for public hearing and deemed both applications for the Wind Project and Transmission Project complete.

Also on February 19, 2020, the Commission issued a Notice of Filings and Notice of Consolidated Hearing, and scheduled a public hearing for April 17, 2020 at 9:30 a.m. CDT, at Memorial Hall, 100 Main Street NW, Bowbells, North Dakota 58721.

On March 13, 2020, North Dakota Governor Doug Burgum issued Executive Order 2020-03 and declared a state of emergency in North Dakota in response to the public health crisis resulting from the novel coronavirus (COVID-19).

On March 30, 2020, North Dakota Governor issued Executive Order 2020-16 suspending the physical location requirements under N.D.C.C. § 44-04-19 for meetings held by governing bodies attending via remote means.

On April 2, 2020, the Laborers District Council of Minnesota and North Dakota (“LIUNA”) filed a Petition to Intervene in Case Nos. PU-19-376 and PU-19-377.

On April 8, 2020, North Dakota Governor issued Executive Order 2020-25 suspending the operation of N.D.C.C. § 44-22-13 requiring the Commission to hold public hearings on permit applications in specific locations.

On April 9, 2020, the Commission, finding that a state of emergency had been declared to prevent and contain the spread of COVID-19 and that guidance had been provided by the State Health Officer and Director of Emergency Services limiting group gatherings to no more than 10 people, adopted a motion to relocate the April 17 hearing to a remote location in accordance with Governor Burgum’s Executive Order 2020-25.

Also on April 9, 2020, the Commission issued Amended Notice of Filings and Consolidated Hearing amending the location of the April 17, 2020 9:30 a.m. CDT public hearing to be held via remote means (“Amended Notice”). The Amended Notice provided as follows:

A consolidated Public Hearing on the applications in Case No. PU-19-376 and Case No. PU-19-377 was noticed to be located at Memorial Hall, 100 Main Street NW Bowbells, ND 58721. Due to the state of emergency, the Public Hearing will be held remotely to begin April 17, 2020 at 9:30 a.m. CDT. The public is encouraged to view the hearing electronically via <https://psc.nd.gov/public/meetings/live.php> or listen telephonically via 1-888-585-9008 with room code 259-316-322.

Public testimony received by the Commission will be placed into the record for consideration. The Commission will receive testimony through the following methods:

Written - Written public testimony may be submitted beginning on April 17, 2020 through April 27, 2020 through email via ndpsc@nd.gov or by mail addressed to: Public Service Commission, 600 E. Boulevard Ave., Dept. 408 Bismarck, ND 58505-0480

Telephonic - The public may testify over the phone by calling 701-328-4081 to be placed on a list. Following the testimony by Northern Divide Wind, LLC on April 17, 2020, the Commission will call you back to receive your testimony in an order determined by the Administrative Law Judge. If you wish to provide documents or photographs for reference during your testimony, please provide them to the above-listed email address with a note expressing the intended use.

The Amended Notice identified the issues to be considered in Case Nos. PU-19-376 and PU-19-377 as follows and as previously identified in the February 19 Notice:

1. Will the location 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?

Also on April 9, 2020, the Commission sent a notification of the Amended Notice and the changed hearing location to individuals who had expressed interest or submitted comments in the proceedings, either through the United States Postal Service or through electronic mail. A list of the recipients of this notification is provided in Docket No. 45.

On April 13, 2020, ALJ Hogan issued an Order granting LIUNA's Petition to Intervene.

On April 17, 2020, the public hearing was held as scheduled pursuant to the Amended Notice.

Exhibits 1 through 21 were entered by Northern Divide Wind at the hearing.

Exhibits I-1 through I-5 were entered by LIUNA at the hearing.

On May 04, 2020, LIUNA filed Late-Filed Exhibit I-6.

The record remained open from April 17, 2020 through April 27, 2020, for public comment. The Commission received prehearing and post-hearing public comments which were entered into the record in PU-19-377 marked as Exhibits PC 1 through PC 154. Docket No. 161.

On May 11, 2020, Northern Divide Wind filed Declaration of Clay Cameron and Declaration of Sean Harrington in response to additional topics raised during the public comment period.

Also, on May 11, 2020, Northern Divide Wind filed a Post Hearing Brief.

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. Northern Divide Wind, LLC is a Delaware limited liability company and is a wholly owned, indirect subsidiary of NextEra Energy Resources, LLC (“NextEra”).
2. Northern Divide Wind is authorized to transact business in the State of North Dakota, as evidenced by the Certificates of Good Standing issued by the Delaware and North Dakota Secretaries of State and filed with the Commission as Docket No. 2 in Case No. PU-19-370.
3. The Transmission Project will be owned and operated by Northern Divide Wind.

### **Size, Type and Preferred Location of Facility**

4. Northern Divide Wind proposes to construct, own, and operate the Transmission Project, an approximately 41-mile long 345 kV electric transmission line and associated facilities in Burke and Mountrail Counties, North Dakota.
5. The project corridor is generally 150 feet wide, except at polling locations where it extends up to 200 feet wide (the “Transmission Project Corridor”), encompasses approximately 745 acres. The Transmission Project will originate at the Wind Project collection substation (Case No. PU-19-376) and terminate at the interconnection to the existing Basin Tande Substation in Mountrail County, North Dakota.
6. Northern Divide Wind has entered into a 30-year power purchase agreement with Basin for the full output of energy produced at the Wind Project.
7. The Transmission Project will be constructed using approximately 279 steel monopole structures. The average height of the single pole structures is 120 feet, but structures will range from 90 to 180 feet depending on the final engineering design. The structure foundation types include 265 direct-embedded and 14 drilled-shaft, with both types ranging from 15 to 50 feet deep and 6 to 15 feet in diameter. Structure spans will range from 350 to 1,350 feet with an average span of 775 feet. Guyed structures will be required at approximately 43 locations, with up to eight guy wires required per structure.

8. The Transmission Project includes a shield wire strung at the top of the structures to provide lightning protection. Bird flight diverters will be mounted to the shield wire per Avian Power Line Interaction Committee (“APLIC”) suggested practices.
9. The Transmission Project will be constructed pursuant to the requirements of the National Electrical Safety Code.
10. Northern Divide Wind has obtained all easements, agreements, and options necessary for the siting and construction of the Transmission Project with the exception of an easement from the North Dakota Department of Trust Lands which will be obtained upon Transmission Project approval from the Commission.
11. Northern Divide Wind anticipates a December 2020 in-service date for commercial operations of the Transmission Project.
12. The estimated total cost to construct the Transmission Project is approximately \$30 million.

#### Study of Preferred Location

13. Northern Divide Wind sent consultation letters to the federal, state, and local departments, agencies, and entities designated in N. D. Admin. Code § 69-06-01-05. The federal, state, and local departments, agencies, and entities that were consulted and provided comment are as follows:
  - a. Federal: Federal Aviation Administration (“FAA”); United States Department of Defense (“USDOD”); and United States Army Corps of Engineers.
  - b. State: North Dakota Aeronautics Commission; North Dakota Geological Survey; North Dakota Department of Environmental Quality; North Dakota Department of Transportation; North Dakota Game and Fish Department (“NDGFD”); North Dakota Department of Trust Lands; North Dakota State Water Commission; and, State Historical Society of North Dakota (“SHSND”).
14. Agency consultations and comments are noted in the Application, exhibits, and testimony presented at the public hearing. Northern Divide Wind has avoided, minimized, and mitigated impacts for all issues raised by state or federal agencies.
15. The Transmission Project will not be considered an obstruction to air navigation under FAA regulations. No part of the Transmission Project will exceed 200 feet in height above ground level. The Transmission Project will include bird flight diverters, which can provide visibility during the day for low flying aircraft.
16. Northern Divide Wind received a response from the USDOD’s Office of the Assistant Secretary of Defense that the Transmission Project will have minimal impact on military operations conducted in the area.

17. Northern Divide Wind has obtained conditional use permits from Burke and Mountrail Counties for the Transmission Project. Docket No. 8, Appendices A and B.
18. The study corridor for the transmission line consisted of one-mile-wide centered on the Transmission Project route (“Study Corridor”). The Study Corridor is in rural North Dakota in an area predominantly comprised of cultivated land, hayfields, pasturelands, and grasslands.
19. Northern Divide Wind performed a desktop evaluation on the Study Corridor for soils, land use, wetlands and waterbodies, trees and shrubs, and protected species and critical habitats.
20. Northern Divide Wind conducted a Class I Literature Search of the Study Corridor to identify previously recorded archaeological sites identified during previous surveys.
21. Northern Divide Wind conducted a Class III Cultural Resource Inventory survey for archaeological resources for areas to be temporarily and permanently impacted by the Transmission Project and submitted the report to the SHSND’s State Historical Preservation Office (“SHPO”). On December 4, 2018 (Docket No. 28), and February 22, 2019 (Docket No. 8, Appendix J), the SHPO issued letters for archaeological resources located within the Transmission Project Corridor and concurred with a “No Significant Sites Affected Determination.”
22. Northern Divide Wind undertook a voluntary outreach and consultation with Native American Tribes to address potential cultural concerns and avoid potential impacts to resources of tribal or cultural significance.
23. Northern Divide Wind conducted natural resource field surveys within the Transmission Project Corridor. The field surveys gathered information on soils, land use and vegetation, wetlands and waterbodies, woodlands, trees and shrubs, and wildlife, including protected species and critical habitats.
24. Northern Divide Wind filed the following reports in support of its Application which contain the results of various wildlife and habitat surveys and studies as follows:
  - a. Wildlife Technical Memorandum: Evaluates and summarizes wildlife studies. Concludes that no adverse impacts are anticipated.
  - b. Grouse Lek and Raptor Nest Strategy: Evaluates and summarizes studies regarding raptor nests and grouse leks, and avoidance and minimization efforts. Concludes no eagle nests, low raptor nest and grouse lek density, and that infrastructure avoids known nests and leks. Provides strategy to collect preconstruction data in spring 2020.
  - c. Whooping Crane Habitat Assessment: Evaluates potential whooping crane use. Concludes probability of use is low in any given year and that impacts are unlikely.

- d. Dakota Skipper Habitat Assessment: This assessment identifies and describes approximately 26 acres of field-verified suitable Dakota skipper habitat within the Transmission Project Corridor. No impacts to the habitat will occur.
- e. Northern Long-Eared Bat Habitat Assessment: Identifies and describes potential summer and foraging habitat. Concludes that the lack of hibernacula and lack of connectivity to other potential habitat (e.g., Missouri River, badlands) may preclude the presence of northern long-eared bat and that no adverse impacts are anticipated.
- f. Wetlands and Other Waters Delineation Reports: Identifies and describes wetlands and other waters delineated in the Transmission Project. No impacts to wetlands or other waters will occur.

25. Northern Divide Wind used the U.S. Fish and Wildlife Service (“USFWS”) Information for Planning and Conservation tool to identify threatened or endangered species or designated critical habitat within the Study Corridor. No federally designated critical habitat for threatened or endangered species is located within the Study Corridor and no threatened or endangered species were identified within the Transmission Project Corridor during surveys.

26. Trees and shrubs are sparsely located within the Transmission Project Corridor, and Northern Divide Wind has sited the Transmission Project to avoid impacts to trees and shrubs to the extent practicable. Tree or shrub removal and replacement will be coordinated with landowners and conducted in accordance with the Commission’s Tree and Shrub Mitigation Specifications.

#### Siting Criteria

27. The Commission has established criteria pursuant to North Dakota Century Code § 49-22-05.1 to guide the Commission in evaluating the suitability of granting a Certificate of Corridor Compatibility and Route Permit. The criteria, as set forth in North Dakota Administrative Code § 69-06-08-02 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

28. Northern Divide Wind evaluated the Transmission Project with respect to the Exclusion, Avoidance, Selection, and Policy Criteria of the Commission.

29. A route for a transmission facility must not be sited within an Exclusion Area. Exclusion Areas may be located within the corridor, but at no given point may such an area or areas encompass more than fifty percent of the corridor unless there is no reasonable alternative.

30. With respect to Exclusion Areas, Northern Divide Wind identified archeological sites through a Class I Literature Search and a Class III Cultural Resources Inventory. Designated and registered archaeological sites are located within the Transmission Project Corridor; however, Northern Divide Wind has sited the Transmission Project to avoid these sites.

31. No additional known Exclusion Areas are located within the Transmission Project Corridor.

32. An Avoidance Area is a geographical area that may not be considered in the routing of a transmission facility unless the applicant shows that, under the circumstances, there is no reasonable alternative. In determining whether an Avoidance Area should be designated for a transmission 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.

33. Areas within 500 feet of an inhabited rural residence, school, or place of business are designated as an Avoidance Area. Pursuant to North Dakota Century Code § 49-22-05.1(2), the 500-foot Avoidance Area for an inhabited rural residence may be waived by the owner of the residence in writing.

34. One inhabited residence is currently located within 500-feet from the outermost portion of the transmission line facility to the nearest point of the residence along the Transmission Project. Northern Divide Wind has obtained a waiver from this landowner and has filed a copy with the Commission. (Docket No. 8, Appendix D).

35. Areas that are geologically unstable are an Avoidance Area. One landslide area as indicated by the North Dakota Geological Survey landslide mapping program is located within the Transmission Project Corridor but is spanned by the Transmission Project; therefore, no impacts to geologically unstable areas are anticipated.

36. With respect to Avoidance Areas, historical farmsteads and cemeteries are present within the Transmission Project Corridor; however, Northern Divide Wind has sited the Transmission Project to avoid these historical resources.

37. No additional known Avoidance Areas are located within the Transmission Project Corridor.

38. In accordance with the Commission's Selection Criteria, a transmission facility may be approved in an area when or if it is demonstrated to the Commission by the applicant that any significant adverse effects that will result from the location, construction, and operation of the facility in that area as they relate to the criteria designated in N.D.A.C. § 69-06-08-02(3) will be at an acceptable minimum, or will be managed and maintained at an acceptable minimum.

39. Northern Divide Wind anticipates the Transmission Project will have a temporary impact on 100.5 acres of land during the construction period, and a permanent impact to approximately 0.589 acres.

40. Wetland delineations were completed on all aspects of the Transmission Project (Docket No. 8, Appendix L). The Transmission Project has been designed to span wetlands, thus avoiding temporary and permanent impacts to wetlands.

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41. Woodlands and wooded areas are located within the Transmission Project Corridor; however, they are sparsely located, make up less than 1 percent, and consists mostly of small, non-contiguous patches. Northern Divide Wind has sited the Transmission Project to minimize impacts to woodlands and wooded areas.

42. In accordance with the Commission's Policy Criteria, the Commission may give preference to an applicant that will maximize benefits that result from the adoption of identified policies and practices in N.D.A.C. § 69-06-08-02(4). The Commission may also give preference to an applicant that will maximize interstate benefits.

43. Northern Divide Wind submitted evidence that the Transmission Project will not have a significant adverse impact on the Selection Criteria set forth in N.D.A.C. § 69-06-08-08(3). Additionally, Northern Divide Wind committed to maximizing the benefits of the Transmission Project to the extent practicable to meet the Policy Criteria set forth in N.D.A.C. § 69-06-08-02(4).

44. The Transmission Project is expected to result in minimal permanent disturbance and occupation of less than one acre of land. No landowners will be displaced. Northern Divide Wind will continue to work with landowners to minimize land use disruptions from the Transmission Project. No impacts to irrigation or quality of agricultural land are anticipated.

45. Northern Divide Wind will utilize best management practices to minimize impacts on ground and surface water, and to prevent soil erosion. Erosion control measures required under the National Pollution Discharge Elimination System permit and the associated Stormwater Pollution Prevention Plan will be implemented. Construction of the Transmission Project is not anticipated to have a significant adverse impact on surface or ground water resources or soils. Temporarily disturbed areas will be restored and reseeded.

46. During construction, the Transmission Project may result in a temporary increase in traffic on county and township roads. The increase in traffic during construction is not expected to be at a volume that will disrupt residents or travel. During operation, no adverse effects to transportation facilities or networks are anticipated.

47. The Transmission Project will not have significant adverse impacts on the area's availability to provide law enforcement, government, health, education, community, and utility facilities or services.

48. Northern Divide Wind has extensively coordinated and consulted with the NDGFD and USFWS regarding avoidance, minimization, and mitigation related to habitat and wildlife as evidenced by Northern Divide Wind's Wildlife Agency Correspondence, Docket No. 19.

49. During the course of the proceeding, LIUNA stated it does not take a position for or against the Application. Docket No. 34. LIUNA testified it does not advocate for the establishment of a local hiring requirement. Docket No 98, pg. 9. LIUNA requested the Commission impose a construction employment reporting requirement.

50. The Transmission Project will not have significant adverse impacts on temporary and permanent labor. Northern Divide Wind testified that it would work with its engineering, procurement, and construction contractors (“EPCs”) such that its EPCs will endeavor to utilize available local labor, first from the vicinity of the Transmission Project, and then more broadly within the state and region.

51. The Transmission Project is expected to be of economic benefit to the affected area through the creation of construction, operation and maintenance jobs, direct payments to participating landowners, state and local tax revenue, and local expenditures.

52. Northern Divide Wind testified it is working directly with its EPCs to implement safety procedures and practices during construction to address worker and community health and safety during the COVID-19 pandemic.

#### Additional Measures to Minimize Impacts

53. Northern Divide Wind has agreed to take steps to mitigate the impact of the Transmission Project as indicated in its execution of the Certification Relating to Order Provisions and the accompanying Tree and Shrub Mitigation Specifications, which has been filed with the Commission. (Docket No. 24).

54. Northern Divide Wind has developed a voluntary Wildlife Conservation Strategy to help fully evaluate risk to wildlife, document efforts taken to reduce potential impacts through avoidance and minimization efforts, establish post-construction efforts, and outline agreed upon offsetting measures or mitigation.

55. Northern Divide Wind will avoid temporary and permanent impacts to field-verified suitable Dakota skipper habitat. High visibility fencing (*e.g.*, snow fence) will be placed around field-verified suitable Dakota skipper habitat areas in close proximity to construction that are to be avoided to restrict construction equipment from disturbing these areas. No construction will occur during the Dakota skipper adult flight period (between June 15 and July 18) in areas adjacent to field-verified Dakota skipper habitat.

56. Northern Divide Wind has adopted siting buffers around known raptor nests and grouse leks to minimize disturbance. Northern Divide Wind is currently conducting additional pre-construction surveys for previously unidentified raptor nests and grouse leks. Any new nests or leks found will have a timing stipulation placed on them under which construction activities will be minimized to the extent practicable within one-half mile (leks and eagle nests) and one-quarter mile (raptor nests) during the lekking and nesting season. Additionally, Northern Divide Wind will monitor the leks and nest during construction to confirm lack of disturbance.

57. Northern Divide Wind will follow APLIC suggested practices to avoid and minimize the potential for avian collisions and will install bird flight diverters on the transmission line.

58. During construction, Northern Divide Wind will provide contractors with constraint maps that identify sensitive areas within the Transmission Project for avoidance. Northern Divide Wind will ensure compliance through onsite environmental construction monitoring.

59. Northern Divide Wind will coordinate with local Natural Resource Conservation Services staff to revegetate noncropland and pasture areas temporarily disturbed during construction or operation of the Transmission Project with locally sourced certified weed free native seed mixes appropriate to the region.

60. Northern Divide Wind will reseed temporarily disturbed areas or restore to crop, based on the conditions of the area prior to construction and based on landowner preference, and will develop and implement a noxious weed prevention plan to minimize the spread of noxious weeds during construction.

61. Northern Divide Wind will complete one-year of post-construction mortality monitoring for birds and bats and will share reporting with both NDGFD and the USFWS.

62. Northern Divide Wind will participate in North Dakota One-Call Excavation Notice System.

From the foregoing Findings of Fact, the Commission now makes the following:

### **Conclusions of Law**

1. The Commission has jurisdiction over Northern Divide Wind and the subject matter of the Application under N.D.C.C. Ch. 49-22.

2. Northern Divide Wind is a utility as defined in N.D.C.C. § 49-22-03(14).

3. The Transmission Project is an electric transmission facility as defined in N.D.C.C. § 49-22-03(6).

4. The Application submitted by Northern Divide Wind meets the corridor and route evaluation criteria required by N.D.C.C. Ch. 49-22.

5. The Commission considered LIUNA's reporting request and finds the request is not necessary for the Commission's decision under North Dakota Century Code Chapter 49-22.

6. The location, construction, and operation of the Transmission Project will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.

7. The location, construction, and operation of the Transmission Project are compatible with environmental preservation and the efficient use of resources.

8. The Transmission Project 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.

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

### **Order**

The Commission orders:

1. Certificate of Corridor Compatibility No. \_\_\_\_ is issued to Northern Divide Wind, LLC designating a corridor area 150 to 200 feet wide centered on the Transmission Project route for the construction, operation, and maintenance of the Northern Divide Wind 345 kV transmission line and associated facilities in Burke and Mountrail Counties, North Dakota, as identified in Docket No. 1, Appendix D.
2. Route Permit No. \_\_\_\_ is issued to Northern Divide Wind, LLC designating a route in Burke and Mountrail Counties, North Dakota, for the construction and operation of an approximately 41-mile 345 kV transmission line. The designated route for this purpose is as identified in Docket No. 1, Appendix D.
3. The Transmission Project Certification Relating to Order Provisions with accompanying Tree and Shrub Mitigation Specifications, filed April 1, 2020 as Docket No. 24, is incorporated by reference and attached to this Order. The Tree and Shrub Mitigation Specifications may be modified upon the mutual agreement of the Commission and Northern Divide Wind.
4. To the extent there are any conflicts or inconsistencies between Northern Divide Wind's Application and the Certification, the Certification provisions control.
5. If modifications are made to the Transmission Project, Northern Divide Wind shall complete a Class III Cultural Resource Survey for any previously un-surveyed portions of the designated site affected by construction activities, in accordance with SHPO guidance, and shall submit cultural resource finds to SHPO for review, and file a copy of SHPO's response with the Commission prior to beginning construction in said areas.

### **PUBLIC SERVICE COMMISSION**

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**Randy Christmann**  
Commissioner

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**Brian Kroshus**  
Chairman

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**Julie Fedorchak**  
Commissioner