



May 25, 2021

Mr. Steve Kahl
Executive Secretary
North Dakota Public Service Commission
600 E Boulevard Avenue - Department 408
Bismarck, ND 58505

Dear Mr. Kahl:

RE: Basin Electric 230-kV Transmission Line Project - Mountrail County
PU-21-049, OAH File No. 20210506

Enclosed for filing, please find Basin Electric Power Cooperative's Proposed Findings of Fact, Conclusions of Law, and Order for Case No. PU-21-049.

If there are questions regarding the filing, please contact me at 701.557.5080 or amerkens@bepc.com.

Sincerely,

A handwritten signature in blue ink that reads "Anine A. Merkens".

Anine A. Merkens
Attorney I

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Enclosures

By hand delivery

By email: Tim Dawson tjdawson@nd.gov
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Proposed Findings of Fact, Conclusions of Law & Order
Basin Electric Power Cooperative
Anine Merkens, Attorney

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Basin Electric Power Cooperative
Neset to Northshore 230-kV Transmission Line**

Case No. PU-21-049

Application for a Certificate of Corridor Compatibility and Route Permit

Proposed FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

May 6, 2021

Appearances

Commissioner Brian Kroshus and Commissioner Randy Christmann.
Commissioner Julie Fedorchak, recused.

Anine A. Merkens, Attorney at Law, Basin Electric Power Cooperative, 1717 East Interstate Avenue, Bismarck, ND 58503.

Brian L. Johnson, Special Assistant Attorney General, as Counsel for the North Dakota Public Service Commission, 600 E. Boulevard Avenue, Dept. 408, Bismarck, North Dakota 58505.

Timothy Dawson, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street, Suite 303, Bismarck, North Dakota 58503.

Preliminary Statement

On January 27, 2021, Basin Electric Power Cooperative (**Basin Electric**), filed with the North Dakota Public Service Commission (**Commission**) a consolidated application for a certificate of corridor compatibility and route permit (**Application**) for an approximately 26.5 mile-long, 230-kV transmission line and substation in Mountrail County, North Dakota (**Project**) in accordance with the requirements of North Dakota Century Code chapter 49-22 and North Dakota Administrative Code (**NDAC**) article 69-06.

On March 3, 2021, the Commission deemed Basin Electric's Application complete and issued a Notice of Filing and Public Hearing (**Notice**) scheduling a hearing for May 6, 2021, at 9:30 a.m. Central Time at Mountrail County South Complex, 8103 61st Street NW, Stanley, ND 58784.

The Notice identified the following issues to be considered with respect to the Application:

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 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?

On May 6, 2021, the hearing was held as scheduled, allowing any interested parties to present testimony in person at Mountrail County South Complex. Hearing Exhibits 1 through 14 were admitted at the hearing.

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 Power Cooperative is an electric generation and transmission cooperative corporation, organized under the laws of the State of North Dakota and authorized to do business in the State of North Dakota.

Design and Preferred Location of Facility

2. Basin Electric proposes to construct approximately 26.5 miles of 230-kV electric transmission line from the existing Neset substation, four miles east of Tioga, to the proposed Northshore substation, eight miles south of Ross, ND (**Project**). The Project is located entirely within Mountrail County, North Dakota.

3. The transmission line consists of approximately 155 structures that will be constructed using galvanized steel poles. Segments of the line will utilize both H-frame and monopole structures. The angle structures will be self-supporting and installed on drilled pier concrete foundations. The in-line tangent and small angle structures will be direct-buried. Guy wires will not be used for any angle structures. Structure height varies depending on the required span distances due to the topography.

4. The transmission line will have three current carrying conductors. Above the conductors will be one optical ground wire and one 7/16-inch diameter steel wire for lightning shielding and communications. The minimum conductor clearance to ground will be 26 feet at maximum operating conditions.

5. The estimated cost of the Project is \$57.4 million.

6. Basin Electric plans to complete the construction by October 31, 2022, with energization by the end of 2022.

Need for Facility

7. The need for an additional 230-kV transmission line is due to load growth in the

area, specifically between Tioga and Parshall. The Southwest Power Pool (**SPP**) is the regional transmission organization that administers bulk electric transmission system reliability upgrades and generation interconnections in this area. A SPP delivery point addition study identified thermal and voltage violations resulting from load additions in Mountrail Williams Electric Cooperative's service area, jeopardizing reliability during contingency events. The Project will provide a new delivery point to avoid curtailment of the transmission system in the area.

Study of Preferred Location

8. Basin Electric selected the Project route based on a number of factors including: compliance with Chapter 49-22 of the North Dakota Century Code and the Commission's siting rules; input from federal and state agencies; minimization of environmental, cultural, socioeconomic impacts; input from landowners; and feasibility from a design, construction and access perspective.

9. Basin Electric and its representatives contacted key local, state, and federal agencies per Section 69-06-01-05 of the NDAC for assistance in identifying concerns or issues within the study area.

10. Basin Electric conducted a Class III Cultural Resources Inventory which included a Class I Literature Review, Class III field survey and a Class III Report. The survey corridor was 200 feet-wide along the transmission line corridor and pull lanes, and 75 feet-wide along access roads. The North Dakota State Historic Preservation Office (**SHPO**) determined the report acceptable and that there had been a good faith effort to avoid impacts to significant sites provided all recommendations are followed. The SHPO approved Basin Electric's Unanticipated Discovery Plan for Cultural Resources and concurred that there were No Significant Sites in the study area.

11. Basin Electric coordinated with landowner stakeholders throughout the route selection process through a combination of in-person meetings, email, physical mailers, phone calls and voicemails. Basin Electric staff began acquiring easements for the Project route in October of 2020 and has contacted every landowner on the Project route. As of May 24, 2021, Basin Electric has secured easements from 94.5 % of the individual landowners, with the North Dakota Department of Trust Lands (**NDDTL**) expected to be executed within a few weeks. Of the 55 owners, there are two easement packages that remain unaquired.

Siting Criteria

12. The Commission has established criteria pursuant to North Dakota Century Code Section 49-22-5.1 to guide the site, corridor, and route suitability evaluation and designation process. The transmission facility corridor and route criteria, as set forth in NDAC Section 69-06-08-02, provides the Commission's requirements regarding Exclusion and Avoidance Areas, as well as the Commission's Selection and Policy Criteria.

13. Basin Electric selected a study area of one-mile wide and a corridor of 125-150 feet-wide, which is the easement size that will be used for construction and maintenance for the life of the Project. The Project corridor encompasses the Project route.

14. Basin Electric evaluated the Project for the Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria of the Commission.

15. An Exclusion Area may not encompass more than fifty percent of a corridor width unless there is no reasonable alternative. An Exclusion Area must be excluded in the consideration of a route for a transmission facility. A buffer zone of a reasonable width to protect the integrity of an Exclusion Area must be included in the siting of the transmission facility.

16. Basin Electric's studies and surveys did not record any Exclusion Areas within the study area.

17. An Avoidance Area is a geographic 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.

18. Basin Electric's studies and surveys recorded 22 cultural sites that would qualify as Avoidance Areas. Six of the sites had been previously recorded. Twenty of the 22 sites will be spanned by the transmission line. The remaining two sites cannot be spanned by the transmission line due to topography.

19. In accordance with the Commission's Selection Criteria set forth in NDAC section 69-06-08-02(3), a transmission facility corridor or route shall be designated only when it is demonstrated to the Commission by the applicant that any significant adverse effects which will result from the location, construction, and maintenance of the facility will be at an acceptable minimum, or that those effects will be managed and maintained at an acceptable minimum.

20. The impact upon agricultural production and family farms and ranches is a selection criteria factor. The majority of the structures on the Project route will be placed on quarter section lines and the edge of fields or property lines to reduce impacts to farming and ranching operations. The construction, operation, and maintenance of this Project will have minimal effect upon agriculture production. Temporary construction disturbances will be confined to the right-of-way and access roads. Basin Electric will return land to its pre-construction state, if possible. Basin Electric compensates landowners for crop loss that occurs as a result of construction.

21. Basin Electric submitted evidence in to the docket that demonstrates the location, construction and maintenance of the Project are not anticipated to cause any significant adverse effects to the remaining selection criteria factors.

22. In accordance with the Commission's Policy Criteria set forth in NDAC section 69-06-08-02(4), preference may be given to an applicant demonstrating certain benefits of the transmission facility. Basin Electric submitted evidence in to the docket that demonstrates its commitment to maximize the benefits of the Project to the extent possible so as to meet the Policy Criteria.

23. Basin Electric has agreed to a number of steps to mitigate the impact of the Project, as indicated by the executed Certification Relating to Order Provisions – Transmission Facility Siting, with accompanying Tree and Shrub Mitigation Specifications.

24. Basin Electric has implemented measures to avoid and minimize effects to biological resources. The impact of the Project on biological resources is expected to be minimal.

25. The Project is located within the US Fish and Wildlife Service-defined whooping crane migration corridor. Basin Electric will implement Avian Power Line Interaction Committee (**APLIC**) Best Management Practices to minimize avian collision risk with transmission lines (i.e., line marking).

26. Basin Electric retained a consultant to conduct a field habitat study to identify areas of potential habitat for the federally threatened Dakota Skipper butterfly. The study indicated there are no publicly available records of the Dakota Skipper occurring within the Project area or immediate vicinity, and that the closest designated critical habitat to the Project area is 13 miles to the southwest. The report concluded the temporary impacts due construction of the Project are unlikely to impact the species.

Additional Measures to Minimize Impact

27. The Project will be constructed according to 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 and the American Concrete Institute.

28. Basin Electric will submit the line route to local emergency agencies prior to any construction so first responders will have GPS coordinates to the site. The Neset and Northshore substations both have a 911 address that will be communicated to all contractors working on those sites. Basin Electric will develop a Spill Prevention, Control, and Countermeasure (**SPCC**) plan if needed. Basin Electric has an OSHA-based safety program supported by the Energy Coalition for Contractor Safety (**ECSS**) for all contractors that work for the Cooperative.

29. Basin Electric will oversee reclamation of all lands in the transmission line corridor including general easement and access areas, farmland, rangeland and will continue to reclaim the corridor and settle any damages caused during the maintenance activities. Basin Electric will also oversee removal and replacement of trees and shrubs according to the Commission's Tree and Shrub Mitigation Plan. Basin Electric will provide weed control during the construction and reclamation and noxious weed control whenever

necessary.

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

Conclusions of Law

1. The Commission has jurisdiction over the applicant, Basin Electric Power Cooperative, and the subject matter of the Application under Chapter 49-22 of the North Dakota Century Code.
2. Basin Electric is a utility as defined in Section 49-22-03(13) of the North Dakota Century Code.
3. The Project is an electric transmission facility as defined in North Dakota Century Code Section 49-22-03(6).
4. The construction, operation, and maintenance of the Project will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
5. The Project is compatible with environmental preservation and the efficient use of resources.
6. The construction, operation, and maintenance of the Project minimizes 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:

Order

1. Basin Electric's application for a consolidated certificate for corridor compatibility and route permit is granted.
2. Certificate of Corridor Compatibility No. ____ is issued to Basin Electric Power Cooperative designating a corridor for the construction, operation, and maintenance of approximately 26.5 miles of 230-kV transmission line and substation in Mountrail County, North Dakota. The Project corridor will be 125 or 150 feet-wide.
3. Route Permit No. ____ is issued to Basin Electric Power Cooperative designating a route for the construction, operation, and maintenance of approximately 26.5 miles of 230-kV transmission line and substation in Mountrail County, North Dakota.
4. The Certification Relating to Order Provisions – Transmission Facility Siting

(Certification), with accompanying Tree and Shrub Mitigation Specifications, executed May 6, 2021 is incorporated by reference and attached to this Order.

5. To the extent there are any conflicts or inconsistencies between the Application, Certification, or Tree and Shrub Mitigation Plan, the Certification provisions control.

6. Basin Electric shall obtain all other necessary licenses and permits prior to commencing construction on such portion of the Project for which the license and/or permit is required, and shall provide copies of such licenses and permits to the Commission prior to construction.

7. Basin Electric is required to comply with all applicable laws, rules, and/or regulations in the event it desires to construct another or a different transmission facility than was specified in the Application within the corridor designated in this proceeding.

PUBLIC SERVICE COMMISSION

**Julie Fedorchak
Commissioner**

**Brian Kroshus
Chairman**

**Randy Christmann
Commissioner**