

**STATE OF NORTH DAKOTA**

**PUBLIC SERVICE COMMISSION**

**Basin Electric Power Cooperative  
230kV Transmission Line Project – Mountrail County  
Siting Application**

**Case No. PU-21-49**

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

**June 23, 2021**

**Appearances**

Commissioners Randy Christmann and Brian Kroshus.

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

Brian L. Johnson, Special Assistant Attorney General. 600 E Boulevard Ave, Bismarck, North Dakota 58505, North Dakota Public Service Commission.

Timothy Dawson, 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 January 27, 2021, Basin Electric Power Cooperative (Basin) filed a combined application for a Certificate of Corridor Compatibility and Route Permit for the construction, operation, and maintenance of approximately 26.5 miles of 230 kilovolt (kV) electric transmission line and associated facilities (Project) located entirely in Mountrail County.

On March 2, 2021, the Commission deemed Basin's application complete and issued a Notice of Filing and Hearing. The public hearing was scheduled to begin at 9:30 a.m. CDT on May 6, 2021, at Mountrail County South Complex, 8103 61<sup>st</sup> St NW, Stanley, ND 58784. The Notice identified the following issues to be considered at the consolidated hearing:

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?

On May 6, 2021, the public hearing was held as scheduled.

Having allowed all interested persons an opportunity to be heard, and having heard, reviewed, and considered all testimony, filings, 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 North Dakota and authorized to do business in North Dakota, as evidenced by the corporate papers filed with the Commission on June 11, 2021, in Case No. PU-08-113.

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

2. Basin proposes to construct, own, and operate an approximately 26.5-mile long, 230kV electric transmission line and associated facilities in Mountrail County, North Dakota. The proposed transmission line will originate at Basin's existing Neset Substation and terminate at its proposed new Northshore Substation, all in Mountrail County, North Dakota. The proposed route for the transmission line is illustrated in Exhibit 7 and identified as Route and Structure Locations on map 1 of 12 to 12 of 12.

3. Basin seeks a project corridor that is 150 feet wide centered on the proposed route from the Neset Substation extending west to AP5 on map 5 of 12, and 125 feet wide centered on the proposed route from AP5 to the proposed Northshore Substation.

4. The Project will be constructed using approximately 155 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 average height of the single pole structures is 95 feet, but structures will range from 70 to 115 feet depending on the final engineering design. The average height of the H-frame structures is 85 feet, but structures will range from 70-120 feet depending on the final engineering design. The structure foundation types include 135 direct-embedded and 20 concrete, with both types averaging 20 feet deep and 5 to 6 feet in diameter. Structure spans will range from 650 to 950 feet with an average span of 800 feet. Guy wires will not be used for any structures.

5. The total cost to construct the Project is approximately \$57.4 million.

6. Basin plans to begin construction of the Project by July 2021 and complete construction by December 2022.

#### Study of Preferred Location

7. Basin initiated correspondence seeking comments from the following federal, state and local agencies regarding the Project:

- a. Federal: (1) Federal Aviation Administration; (2) U.S. Army Corps of Engineers; (3) U.S. Department of Defense - Air Force Cable Affairs; (4) U.S. Fish and Wildlife Service; (5) U.S. Forest Service; and (6) Lake Ilo National Wildlife Refuge.
- b. State: (1) ND Attorney General; (2) ND Department of Agriculture; (3) ND Department of Career and Technical Education; (4) ND Department of Commerce; (5) ND Department of Environmental Quality; (6) ND Aeronautics Commission; (7) ND Department of Human Services; (8) ND Department of Transportation; (9) North Dakota Department of Trust Lands; (10) ND Energy Development Impact Office; (11) ND Game and Fish Department; (12) ND Indian Affairs Commission; (13) ND Industrial Commission; (14) ND Labor Department; (15) ND Parks and Recreation Department; (16) ND Soil Conservation Committee; (17) ND State Water Commission; (18) Job Service of North Dakota; (19) ND State Historic Preservation Office(SHSND); and (20) ND Office of the Governor.
- c. Local: (1) Mountrail County Commission; (2) Mountrail County Planning and Zoning Department; (3) Mountrail County Auditor; and (4) Mountrail County Weed Board.

8. Basin conducted a Class I cultural resource literature review and a wildlife and habitat desktop analysis across a one-mile-wide area centered on the Project route (Study Area).

9. Basin conducted several surveys across a generally 200-foot-wide area centered on the Project route as approximated on Hearing Exhibit 6 and identified precisely by the associated GIS map data (Survey Area). Basin conducted surveys for wildlife, threatened and endangered species, critical habitats, wetlands, waterbodies, noxious weeds, and trees/saplings/shrubs.

10. Basin conducted a Class III Cultural Resources Inventory which included a 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 SHSND 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 SHSND approved Basin Electric's Unanticipated Discovery Plan for Cultural Resources.

11. Basin began acquiring easements for the proposed Project route in October of 2020 and has contacted every landowner on the proposed Project route. As of June 17, 2021, Basin has secured easements with 53 of the 55 individual landowners necessary for the Project.

## Siting Criteria

12. The Commission has established criteria pursuant to North Dakota Century Code (NDCC) section 49-22-5.1 to guide the site, corridor, and route suitability evaluation and designation process. The criteria, as set forth in North Dakota Administrative Code (NDAC) section 69-06-08-02, are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

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

14. An Exclusion Area is a geographic area that must be excluded in the consideration of a route for a transmission facility. An Exclusion Area may be located within a 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. A transmission facility route must not be sited within an Exclusion Area.

15. Basin's studies and surveys did not record any Exclusion Areas within the Survey Area.

16. 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.

17. Historical resources which are not specifically designated as exclusion or avoidance areas are designated avoidance areas under NDAC section 69-06-08-02(2)(c). Basin's Class III Cultural Resources Inventory 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. The SHSND determined the report acceptable and that there had been a good faith effort to avoid impacts to significant sites provided all recommendations are followed.

18. Basin's studies and surveys did not record any other avoidance areas within the Survey Area.

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 approved only if it is demonstrated that any significant adverse effects that will result from the location, construction, and maintenance of the transmission facility will be at an acceptable minimum, or that those effects will be managed and maintained at an acceptable minimum. Basin has analyzed the impacts of the Project in relation to all relevant Selection Criteria.

20. Family farms and ranches are a Selection Criteria. Most 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. Temporary construction disturbances will be confined to the right-of-way and access roads. Basin compensates landowners for crop loss that occurs as a result of construction.

21. Agricultural production is a Selection Criteria. Approximately seven acres of cropland would be permanently removed from production for construction of the Northshore Substation.

22. Sound-sensitive land uses is a Selection Criteria. Following construction, there will be a minimal amount of sound from the Project as a result of corona effects, which occur when air molecules near conducting wire are ionized due to changes in the electric field intensity at the conductor surface. The sound is most noticeable when conductors are wet as a result of precipitation.

23. The visual effect on the adjacent area is a Selection Criteria. The Project will be visible to landowners and travelers along roadway. Existing transmission lines, oil and gas well pads, and roads are present in the viewshed.

24. Wetlands, woodlands, and wooded areas are Selection Criteria. Basin has committed to avoid direct impacts to all wetlands, with the exception of one wetland impact from an access road that will be permitted under Nationwide Permit 12.

25. Animal health and safety is a Selection Criteria. The Project includes an optical ground wire (OPGW) strung at the top of the structures to provide lightning protection. Bird flight diverters will be mounted to the OPGW per Avian Power Line Interaction Committee (APLIC) guidelines. Construction work will be coordinated with landowners to avoid impacts to livestock. Basin is committed to mitigating potential impacts to wildlife as outlined in Section 5.8.2 of its application.

26. The adverse effects to Selection Criteria that will result from the construction, operation, and maintenance of the Project at this location will be at an acceptable minimum.

27. The Commission's Policy Criteria are set forth in NDAC section 69-06-08-02(4). The Commission may give preference to an applicant that will maximize benefits that result from the adoption of various policies and practices. There is no need for the Commission to give preference to the applicant in this proceeding.

#### Additional Measures to Minimize Impact

28. 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.

29. Basin will submit the designated route to local emergency agencies prior to any construction so first responders will have Global Positioning System coordinates for the route. 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 plan if any of the material staging areas include vehicle and equipment refueling or storage of petroleum products in excess of 1,320 gallons. Basin has an Occupational Safety and Health Administration based safety program supported by the Energy Coalition for Contractor Safety for all contractors.

30. Basin will provide weed control during the construction and reclamation.

31. Basin has agreed to a number of steps to minimize 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, which is incorporated by reference and attached to this Order.

32. The Project will be constructed pursuant to the requirements of the National Electrical Safety Code.

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

### **CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over the applicant, Basin Electric Power Cooperative and the subject matter of the application under NDCC section 49-22.

2. Basin is a utility as defined in NDCC section 49-22-03(13).

3. The Project is an electric transmission facility as defined in NDCC section 49-22-03(6).

4. The application submitted by Basin for the Project meets the site evaluation criteria as required by NDCC section 49-22.

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

6. The 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.

7. The construction, operation and maintenance of the transmission line at the proposed location is compatible with environmental preservation and the efficient use of resources.

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

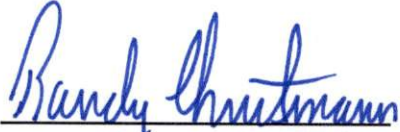
## **ORDER**

The Commission orders:

1. Certificate of Corridor Compatibility No. 222 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 associated facilities in Mountrail County, North Dakota. The approved corridor is 150 feet wide centered on the proposed route from the Neset Substation extending west to AP5 on map 5 of 12, and 125 feet wide from centered on the proposed route from AP5 to the proposed Northshore Substation.
2. Route Permit No. 232 is issued to Basin Electric Power Cooperative designating a route in Mountrail County, North Dakota, for the construction, operation, and maintenance of approximately 26.5 miles of 230 kV transmission line and associated facilities. The designated route for this purpose is approximated as the Route and Structure Locations on Map 1 of 12 to 12 of 12 in Exhibit 7, and identified precisely by the associated GIS map data.
3. The Certification Relating to Order Provisions – Transmission Facility Siting (Certification) with accompanying Tree and Shrub Mitigation Specifications is incorporated by reference and attached to this Order.
4. To the extent there are any conflicts or inconsistencies between Basin's application and the Certification, the Certification provisions control.
5. Basin 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 of such portion.
6. Basin 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.
7. If modifications are made to the Project, Basin shall complete a Class III Cultural Resource Survey for any previously un-surveyed portions of the designated corridor 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**



**Randy Christmann  
Commissioner**

**[recused]**

**Julie Fedorchak  
Chair**



**Brian Kroshus  
Commissioner**

**PUBLIC SERVICE COMMISSION  
STATE OF NORTH DAKOTA**

**Certificate of Corridor Compatibility Number 222**

*This is to certify that the Commission has designated a transmission facility corridor for Basin Electric Power Cooperative for the construction, operation, and maintenance of approximately 26.5-miles of 230 kV electric transmission line and associated facilities in Mountrail County.*


*This certificate is issued in accordance with the Order of the Commission dated June 23, 2021 in Case No. PU-21-49 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, June 23, 2021.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
\_\_\_\_\_  
**Executive Secretary**

  
\_\_\_\_\_  
**Commissioner**

**PUBLIC SERVICE COMMISSION**  
**STATE OF NORTH DAKOTA**

**Route Permit Number 232**

*This is to certify that the Commission has designated a transmission facility route for Basin Electric Power Cooperative for the construction, operation, and maintenance of approximately 26.5-miles of 230 kV electric transmission line and associated facilities in Mountrail County.*

*This permit is issued in accordance with the Order of this Commission dated June 23, 2021 in Case No. PU-21-49 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, June 23, 2021.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
\_\_\_\_\_  
**Executive Secretary**

  
\_\_\_\_\_  
**Commissioner**

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Company  
Description  
Siting Application

Case No. PU-21-49

CERTIFICATION RELATING TO ORDER PROVISIONS  
TRANSMISSION FACILITY SITING

I am Kevin L. Soliva, a representative of BEPC ("Company") with authority to bind BEPC to requirements to be set forth by the Commission in its Order and I certify the following:

1. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission will be subject to the conditions and criteria set forth in Chapter 49-22 of the North Dakota Century Code and Chapter 69-06-08 of the North Dakota Administrative Code, and that Company shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Company agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the transmission facility including all city, township, and county zoning regulations.
3. Company understands and agrees that it shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction activity associated with the transmission facility that requires said license or permit.
4. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission is subject to suspension or revocation and may, in an appropriate and proper case, be suspended or revoked for failure to comply with the Commission's order, the conditions and criteria of the certificate or subsequent modification, or failure to comply with the applicable statutes, rules, regulations, standards, and permits of other state or federal agencies.
5. Company agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order issuing a Certificate of Corridor Compatibility or Route Permit, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.
6. Company understands and agrees that the authorizations granted by any Certificate of Corridor Compatibility or Route Permit issued by the Commission for the



transmission facility are subject to modification by order of the Commission if deemed necessary to protect further the public or the environment.

**Construction:**

7. Company agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Company representative, its construction supervisor, and a representative of Commission Staff, to ensure that Company fully understands the conditions set forth in the Commission's order.
8. Company understands and agrees that all cultural resource mitigation plans must be submitted to the North Dakota State Historic Preservation Office and approved prior to the start of any fieldwork and construction activity in the affected area.
9. Company understands and agrees that topsoil removal will begin when the Commission's third-party construction inspector is present at the Project site to observe that topsoil is properly removed and kept segregated from subsoil until replacement occurs. Company shall establish the date and time for the Commission's third-party construction inspector's topsoil removal oversight in the preconstruction conference.
10. Company agrees to inform the Commission and the Commission's third-party construction inspector of its intent to start construction on the transmission facility prior to the commencement of construction. Once construction has started, Company shall keep the Commission and the Commission's third-party construction inspector updated on construction activities on a monthly basis.
11. Company understands and agrees that all topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas where cuts will be made, must be carefully stripped and segregated from the subsoil. Any area on which excavated subsoil will be placed must also be stripped of topsoil. The stripped topsoil must not be stockpiled in natural drainages, and must be protected from water erosion. Care must be taken to protect topsoil from unnecessary compaction by heavy machinery. Unless otherwise approved by the Commission, topsoil must be removed before topsoil freezes in the late fall/ early winter to the point that frost inhibits proper soil segregation. After backfilling with subsoil is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography. Topsoil must be replaced over areas from which it was stripped only after the subsoil is replaced.
12. Company understands and agrees that all buried facility crossings of graded roads must be bored unless the responsible governing agency specifically permits Company to open cut the road.

13. Company understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Company unless otherwise negotiated with landowners.
14. Company understands and agrees that if any cultural resource, paleontological site, archeological site, historical site, or grave site is discovered during construction, it must be marked, preserved and protected from further disturbances until a professional examination can be made and a report of such examination is filed with the Commission and the State Historical Society.
15. Company understands and agrees that construction must be suspended when weather conditions are such that construction activities will cause irreparable damage to roads or land, unless adequate protection measures are taken by Company.
16. Company understands and agrees that the Commission has authority to stop Project construction activities in the event of a probable violation of the siting laws, siting rules, or applicable Commission Orders if, in the opinion of the Commission, construction activities are likely to result in irreparable or significant harm.

**Restoration and Maintenance:**

17. Company understands and agrees that it shall, as soon as practicable upon the completion of the construction of the transmission facility, restore the area affected by the activities to as near as is practicable to the condition as it existed prior to the beginning of construction.
18. Company understands and agrees that all pre-existing township and county roads and lanes used during construction must be repaired or restored to a condition that is equal to or better than the condition prior to the construction of the transmission facility and that will accommodate their previous use, and that areas used as temporary roads or working areas during construction must be restored to their original condition.
19. Company understands and agrees that reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.
20. Company will fulfill its obligation for reclamation and maintenance of the approved transmission facility right-of-way, transmission facility, and associated facilities continuing throughout the life of the transmission facility.
21. Company will repair all fences and gates removed or damaged during all phases of construction and operation of the transmission facility.

22. Company will repair or replace all drainage tile broken or damaged as a result of construction and operation of the transmission facility.
23. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
24. Company understands and agrees that it shall work with landowners and residents to mitigate any increase in television and residential radio interference that results from the construction of the transmission facility.
25. Company understands and agrees that it shall remove all waste that is a product of construction and operation, restoration, and maintenance of the site, and properly dispose of it on a regular basis.
26. Company understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the transmission facility.

**Communication with Landowners and PSC:**

27. Company understands and agrees that, prior to beginning construction of the transmission facility at a location, it shall send a letter to each landowner with whom an easement was executed for that location specifying the name and phone number of the company representative who is responsible for receiving and resolving landowner issues for the life of the easement.
28. Company understands and agrees that it will file with the commission the name and phone number of the current company representative who is responsible for receiving and resolving landowner issues for the transmission facility. The company will update this information whenever there is a change to the current company representative for the life of all easements for the transmission facility.
29. Upon request, Company agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.
30. Company understands and agrees that it shall advise the Commission as soon as reasonably possible of any extraordinary events which take place at the site of the transmission facility, including injuries to any person.
31. Company agrees to report to the Commission, as soon as reasonably possible, the presence in the permit area of any critical habitat or threatened or endangered species of which Company becomes aware and which were not previously reported to the Commission.

32. Company understands and agrees that it shall inform the Commission in writing of any plans to modify the transmission facility or of any plans to modify the site plan for the transmission facility.
33. Company agrees to provide the Commission with both an electronic and a paper copy of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission facility as built, and will provide this information within 3 months of the completion of the construction. Company also agrees to provide an electronic version of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission facility as built that can be imported into ESRI GIS mapping software within 3 months of the completion of the construction. This electronic map data must be referenced to the North Dakota coordinate system of 1983, North and/or South zones US Survey feet (NAD 83) UTM Zone 13N or 14N feet (NAD 83), or geographic coordinate system (WGS 84) feet. The vertical data must be in the appropriate vertical datum for the coordinate system used. All submissions must specify the datum in which the data was developed.
34. Company shall notify the Commission as soon as reasonably possible if any damage, as defined by North Dakota Century Code Chapter 49-23, occurs to underground facilities during construction conducted under the certificate or permit issued in this proceeding. In the event of any damage to underground facilities, Company shall suspend construction in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century Code Chapter 49-23 has been determined.

**Route Adjustments Before or During Construction:**

36. Company agrees to utilize the following procedures if Company seeks a route adjustment before or during construction of the transmission line.
37. Company will file the name and contact information for a key contact person for the purposes of notice and communication during the adjustment application.
38. **ROUTE ADJUSTMENT WITHIN DESIGNATED CORRIDOR, NO AVOIDANCE AREA AFFECTED:** Before conducting any construction activities for any adjustment to the designated route within the designated corridor, the Company will file:
  - a. Certification and supporting documentation affirming that construction activities will be within the designated corridor, will not affect any known exclusion or avoidance areas within the designated corridor;
  - b. Certification and supporting documentation, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying the designated corridor, route and the route adjustment;

- c. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

39. **ROUTE ADJUSTMENT WITHIN DESIGNATED CORRIDOR, AVOIDANCE AREA AFFECTED:** Before adjusting the route of an electric transmission line within the designated corridor that may affect an avoidance area, and before conducting any construction activities for any adjustment to the designated route within the designated corridor, the Company will file:

- a. A specific description of the avoidance area expected to be impacted, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying:
  - i. the designated corridor, route and the route adjustment;
  - ii. all exclusion and avoidance areas within the portion of the designated corridor containing the route adjustment
- b. Certification and supporting documentation affirming:
  - i. That construction activities will be within the designated corridor
  - ii. That construction activities will not affect any known exclusion area
- c. All field studies performed on the portion of the designated corridor containing the route adjustment;
- d. Specific information about any mitigation measures Company will take within the adjustment area;
- e. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment;
- f. Certification that unless the Commission previously authorized the impact to the same avoidance area, that the utility has good cause and a specific reason to impact the avoidance area and a reasonable alternative does not exist;
- g. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

40. **ROUTE ADJUSTMENT OUTSIDE DESIGNATED CORRIDOR, NO AVOIDANCE AREA AFFECTED:** Before adjusting the route of an electric transmission line outside the designated corridor and not affecting any exclusion and avoidance area, before conducting any construction activities for any adjustment to the designated route outside the designated corridor, the Company will file:
- a. Certification and supporting documentation affirming that construction activities will not affect any known exclusion or avoidance areas,
  - b. Certification and supporting documents stating the length of the proposed route outside of the corridor and a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying the designated corridor, corridor adjustment, designated route and the route adjustment;
  - c. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment; and
  - d. Detailed field studies indicating exclusion and avoidance areas for the proposed adjustment area; and
  - e. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.
41. **ROUTE ADJUSTMENT OUTSIDE DESIGNATED CORRIDOR, AVOIDANCE AREA AFFECTED:** Before adjusting the route of an electric transmission line outside the designated corridor that may affect an avoidance area, and before conducting any construction activities for any adjustment to the designated route outside the designated corridor, the Company will file:
- a. A specific description of the avoidance area expected to be impacted, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying:
    - i. the designated corridor, corridor adjustment, route and the route adjustment;
    - ii. all exclusion and avoidance areas within the adjustment area
  - b. Certification that construction activities will not affect any known exclusion area;
  - c. Certification that the utility has good cause and a specific reason to impact the avoidance area and a reasonable alternative does not exist within the designated corridor and route;
  - d. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment;
  - e. Provide specific information about any mitigation measures Company will take within the adjustment area;
  - f. Detailed field studies indicating exclusion and avoidance areas for the proposed adjustment area; and

g. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

Company acknowledges and agrees that:

- 42. When applicable, Company may submit the field studies from the original application for the corridor and route provided they cover the adjustment area.
- 43. Company acknowledges and agrees that written authorization from the Commission for impacting the avoidance area is necessary prior to commencement of construction activity.

Dated this 6 day of May, 2024.

COMPANY NAME

By [Signature]  
\_\_\_\_\_

Its Senior Env. Comp. Admin.

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Basin Electric Power Cooperative  
230kV Transmission Line Project – Mountrail County  
Siting Application**

**Case No. PU-21-49**

**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.