

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Basin Electric Power Cooperative
Pioneer Generating Station Phase IV - Williams County
Siting Application**

Case No. PU-22-380

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

January 6, 2023

Appearances

Commissioners Julie Fedorchak, Randy Christmann and Sheri Haugen-Hoffart

Anine A. Merkens, Attorney at Law, Basin Electric Power Cooperative, 1717 East Interstate Ave., Bismarck, North Dakota 58503, on behalf of Basin Electric Power Cooperative.

John Schuh, Special Assistant Attorney General, 600 E. Boulevard Ave, Dept. 408, Bismarck, ND 58505, on behalf of the North Dakota Public Service Commission

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

Preliminary Statement

On October 7, 2022, Basin Electric Power Cooperative (Basin Electric), filed with the North Dakota Public Service Commission (Commission) an application for a certificate of site compatibility for the Pioneer Generating Station (PGS) Phase IV (Project).

On November 18, 2022, Basin Electric filed supplemental documents with the Commission (together with the original application, the "Application").

On November 30, 2022, the Commission deemed the Application complete.

Also on November 30, 2022, the Commission issued a Notice of Filing and Public Hearing (Notice) scheduling a hearing for January 5, 2023, at 9:00 a.m. (C.T.) at the Williston City Hall in the John Kautzman Chamber Room, 22 East Broadway, Williston, ND 58802.

The Notice identified the following issues to be considered with respect to the application for a certificate of site compatibility:

1. Will construction, operation, and maintenance of the facility at the proposed location produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?
2. Is the proposed facility compatible with the environmental preservation and the efficient use of resources?
3. Will construction, operation, and maintenance of the facility at the proposed location 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 January 5, 2023, the hearing was held as scheduled. Pursuant to the Notice, public testimony was received during the hearing and the record was closed thereafter. Exhibit 7, which had previously been submitted to the Commission as supplemental information, was 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 its:

Findings of Fact

1. Basin Electric Power Cooperative is a North Dakota rural electric generation and transmission cooperative corporation authorized to do business in the State of North Dakota.

Size, Type, and Preferred Location of Facility

2. The proposed Project is located on the existing Pioneer Generating Station site, a 120-acre parcel, and on an adjacent 160-acre parcel. The Project is located 15 miles northwest of Williston in Williams County, North Dakota at Section 20, Township 155 North, Range 103 West. The combustion turbine that was designated Unit 1 began commercial operation in September of 2013. Phase II consisted of two additional 45 megawatt simple cycle combustion turbines and the associated balance of plant equipment, designated as Unit 2 and Unit 3. PGS Unit 2 began commercial operation in February 2014, and Unit 3 in March 2014. In 2017, twelve gas reciprocating engines and auxiliary equipment with a total nominal electrical output of 111 megawatts were put in to commercial operation in PGS Phase III. The proposed RICE units would be located south of PGS on the existing 120-acre parcel. The proposed F-Class Combustion Turbines would be constructed to the north on the 160-acre parcel adjacent to PGS that was purchased by Basin Electric on September 29, 2022.

3. The Project consists of six nominal 18.8-megawatt (MW) natural gas reciprocating internal combustion engines (RICE) and two F-Class natural gas-fired simple-cycle combustion turbines (F-Class Combustion Turbines) with the capacity to produce up to

250 MW each. Natural gas for the Project will be sourced from either the ONEOK Stateline I Gas Processing Plant or the Northern Border Pipeline through a new one-half mile pipeline that will connect to the existing WBI Energy Transmission system. This line would follow the same route as the pipeline that currently serves PGS. Water is supplied to PGS by the Northwest Rural Water District that has a dedicated 10 inch pipeline to the facility. Basin Electric expects that the current water supply will meet the needs of the Project.

4. The Project will utilize the existing PGS infrastructure. The auxiliary equipment for the Project includes three natural-gas fired dew point heaters, an evaporative cooler and associated process water holding pond, two small diesel tanks, an electrical switchyard, stormwater retention ponds, temporary laydown areas, and temporary parking for use during construction. The electricity produced by the Project will serve Basin Electric's member cooperatives in their need for increased electric generation.

5. The estimated in-service date for the RICE units is May of 2025. The estimated in-service date for the first F-Class Combustion Turbine is June of 2025 and the second F-Class Combustion Turbine is planned to be in-service in May of 2026.

6. The estimated cost of the Project is \$670 million, excluding labor costs, financing fees and the transmission that will be required to bring the new generation to the grid once the Project is finished. The total cost of the Project including the additional transmission that will be permitted separately is approximately \$780 million.

Study of Preferred Location

7. Metcalf Archaeological Consultants, on behalf of Basin Electric, conducted a Class I cultural resource literature search including a 1.0-mile buffer of the Project Site. WEST Inc., on behalf of Basin Electric, conducted a desktop analysis for wetlands, waterbodies wildlife and other sensitive environmental resources including a 0.5-mile buffer around the Project Site (Study Area).

8. Metcalf Archaeological Consultants, on behalf of Basin Electric, conducted field surveys to inventory wetlands, waterbodies, protected and endangered species, critical habitats, general wildlife, noxious weeds, trees, saplings, and shrubs.

9. Metcalf Archaeological Consultants, on behalf of Basin Electric, conducted a Class III cultural resource field inventory across the Survey Area. The Class III reports were submitted to the North Dakota State Historic Preservation Office (SHPO). Basin Electric's Class III cultural resource survey did not identify any new or previously recorded cultural or historic resources within the Project Site. The SHPO concurred with Basin Electric' Class III survey recommendation of "No Historic Properties Affected" provided the project takes place in the location and in the manner described in the documentation (Survey Area).

10. Basin Electric initiated correspondence seeking comments regarding the Project

from the 35 federal, state and local agencies enumerated in North Dakota Administrative Code subsection 69-0-01-05 (designated agencies and officers) as well as the Williams County Auditor and Williams County Director of Development Services.

Siting Criteria

11. The Commission has established criteria pursuant to North Dakota Century Code Section 49-22-05.1 to guide the Commission in evaluating the suitability of granting an application for a certificate of site compatibility. The criteria, as set forth in North Dakota Administrative Code Section 69-06-08-01, are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

12. Basin Electric evaluated the Study Area regarding the Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

13. An Exclusion Area is a geographic area that must be excluded in the consideration of a site for an electric energy conversion facility.

14. Basin Electric's surveys did not record any Exclusion Areas within the Study Area.

15. An Avoidance Area is a geographic area that may not be approved as a site for an electric energy conversion facility unless the applicant demonstrates that under the circumstances there is no reasonable alternative. In determining whether an Avoidance Area should be designated for a facility, the Commission may consider, among other things, the proposed management of adverse impacts, the orderly siting of facilities, system reliability and integrity, the efficient use of resources, and alternative sites.

16. Basin Electric's field surveys confirmed one wetland, an Avoidance Area, within the Project Site. The wetland is located in the ditch along the eastern boundary of the 160-acre parcel and would not be impacted by the construction or operation of the facility. No trees or shrubs are present on the Project Site.

17. The Commission's Selection Criteria are set forth in North Dakota Administrative Code Section 69-06-08-01(5). A site shall be approved only if it is determined that any significant adverse effects resulting from the location, construction, and operation of the facility as they relate to the Selection Criteria will be at an acceptable minimum, or will be managed and maintained at an acceptable minimum. Basin Electric analyzed the effects that may result from the location, construction, and operation of the Project.

18. Basin Electric testified that it will take all reasonable measures to mitigate noise impacts to adjacent landowners. Noise levels will be managed and maintained at or below applicable local requirements for the zone district.

19. Construction of the Project will not impact irrigated lands. Furthermore, Basin Electric evaluated and incorporated surface drainages into a grading and drainage layout

in order to avoid negative impacts on drainage patterns.

20. The existing PGS site is zoned for industrial use. The 160-acres of land purchased by Basin Electric for the Project, was converted from agricultural to industrial use.

21. The Commission's Policy Criteria are set forth in North Dakota Administrative Code Section 69-06-08-01(6). The Commission may give preference to an application demonstrating certain benefits of the electric energy conversion facility. Basin Electric has committed to maximizing benefits that result from implementing the policies and practices applicable to the proposed electric energy conversion facility.

22. The Project will utilize natural gas, a primary energy source, from sources located in the vicinity of the Project.

23. No residences will be displaced or require relocation due to the project.

24. By proposing to construct the Project on the existing PGS site and adjacent owned land, Basin Electric will reduce the cost of infrastructure and transmission interconnections.

25. A portion of the electricity produced by the Project will be used in the State of North Dakota.

Additional Measures to Minimize Impact

26. 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 – Energy Conversion Facility Siting, with accompanying Tree and Shrub Mitigation Specifications, which is incorporated by reference and attached to this Order.

27. Basin Electric will comply with any requirements or recommendations made by any local, state, or federal agency.

28. Basin Electric and/or its contractors have developed several project control documents that will be utilized in connection with the construction and operation of the Project including a Storm Water Pollution Protection Plan, Emergency Action Plan, Spill Contingency Plan, Unanticipated Discovery Plan, and a Site Specific Safety and Health Plan.

29. Basin Electric requires that all on-site contractors develop and submit an Emergency Response Plan. All contractors are required to become a member of the Energy Coalition for Contractor Safety which is administered by the North Dakota Safety Council.

30. Basin Electric will utilize the ND One Call system during construction.

31. Basin Electric will work with adjacent landowners by communicating construction plans and mitigating, where possible, negative impacts of the Project operation in the long term.

32. Basin Electric will follow the North Dakota Department of Environmental Quality's recommendations detailed in its July 19, 2022 letter.

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 over the subject matter of the Application under North Dakota Century Code Chapter 49-22.

2. Basin Electric is a utility as defined in North Dakota Century Code Section 49-22-03(14)(12).

3. The Project is an electric energy conversion facility as defined in North Dakota Century Code Section 49-22-03(5).

4. The construction, operation, and maintenance of the Plant will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.

5. The Plant is compatible with the environmental preservation and the efficient use of resources.

6. The construction, operation, and maintenance of the Plant 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 now makes the following order:

Order

The Commission orders:

1. Certificate of Site Compatibility No. ___ is issued to Basin Electric Power Cooperative designating a site for the construction, operation, and maintenance of an electric energy conversion facility. For purposes of this Certificate, the designated site includes the original PGS 120-acre parcel and the adjacent 160-acre expansion area parcel, all located in Section 20, Township 155 North, Range 103 West in Williams County as identified in Figure 1-2 of the Application.

2. The Certification Relating to Order Provisions – Energy Conversion Facility Siting (Certification) with attached Tree and Shrub Mitigation Specifications executed January 19, 2023, is incorporated by reference and attached to this Order.

3. To the extent there are any conflicts or inconsistencies between the Application and the Certification, the Certification provisions control.

4. Prior to commencing construction of any portion of the proposed project, Basin Electric shall obtain all necessary licenses and permits for construction of such portion, and provide copies to the Commission prior to construction of the portion of the project.

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

PUBLIC SERVICE COMMISSION

Julie Fedorchak
Commissioner

Randy Christmann
Commissioner

Sheri Haugen-Hoffart
Commissioner