

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

**Case No. PU-23-338**

**Basin Electric Power Cooperative  
Pioneer Generating Station to Judson 345-kV Transmission Line  
Application for a Certificate of Corridor Compatibility and Route Permit**

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

**February 1, 2024**

**Appearances**

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

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

**Preliminary Statement**

On October 18, 2023, 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 14.6 mile-long, 345-kV transmission line in Williams 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 December 13, 2023, the Commission deemed Basin Electric's Application complete and issued a Notice of Filing and Public Hearing (**Notice**) scheduling a hearing for February 1, 2024, at 9:00 a.m. Central Time at the Williston City Hall, 22 East Broadway, Williston, ND 58801.

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 February 1, 2024, the hearing was held as scheduled, allowing interested parties to present testimony. Hearing Exhibits 1 through 9 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 14.6 miles of 345-kV electric transmission line from the Pioneer Generation Station, three miles west of Williston, to the Judson substation (**Project**). The Project is located in Williams County, North Dakota.
3. The transmission line consists of approximately 81 steel structures. The structures will be self-supporting and installed on drilled pier concrete foundations. Permanent guy wires will not be used. Basin Electric will use an aluminum conductor with a composite carbon fiber conductor core for the Project. Structure height varies according to the required span distances to meet minimum electric clearances, road and utility crossings, and is optimized for topography.
4. The estimated cost of the Project is \$31 million.
5. Basin Electric plans to complete the construction the end of 2024, with energization planned for 2025.

### Need for Facility

6. The Project was developed in response to forecasted electric load growth in the Williston Basin. The Project will connect the Pioneer Generation Station Phase IV units to the electrical grid.

### Study of Preferred Location

7. 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.
8. 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.
9. 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 150 feet-wide. 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.
10. 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 September of 2022 and by December of 2023 had received easements from each landowner along the Project route.

### Siting Criteria

11. 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.
12. Basin Electric selected a study area of one-mile wide and a corridor of 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.
13. Basin Electric evaluated the Project for the Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria of the Commission.
14. 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.

15. Basin Electric's studies and surveys did not record any Exclusion Areas within the study 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. There is one homestead located within five hundred of the Project corridor but is greater than five hundred feet from the route. Basin Electric and the landowner have a written agreement expressing the parties' support for Basin Electric to build within the Avoidance Area.

18. 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.

19. Basin Electric submitted evidence into 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.

20. 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 into the docket that demonstrates its commitment to maximize the benefits of the Project to the extent possible so as to meet the Policy Criteria.

21. 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.

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

23. Basin Electric retained a consultant to conduct a natural resource inventory of a 530-acre area which included an evaluation of habitat for federally listed species. The consultant further conducted surveys for bald eagle and raptor nests.

After consultation, the North Dakota Parks and Recreation Department determined there are no plant species or other significant ecological communities known to occur within a mile of the Project.

24. Basin Electric will implement best management practices to minimize impacts to federally listed species.

#### Additional Measures to Minimize Impact

25. 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.

26. 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 Pioneer Generation Station and Judson substation 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 (**ECCS**) for all contractors that work for the Cooperative.

27. 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 maintenance activities. Basin Electric will also oversee the 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, as well as 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 14.6 miles of 345-kV transmission line in Williams County, North Dakota. The Project corridor will be 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 14.6 miles of 345-kV transmission line and substation in Williams County, North Dakota.
4. The Certification Relating to Order Provisions – Transmission Facility Siting (**Certification**), with accompanying Tree and Shrub Mitigation Specifications, executed February 1, 2024 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**

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**Julie Fedorchak  
Commissioner**

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**Randy Christmann  
Chairman**

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**Sheri Haugen-Hoffart  
Commissioner**