

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

**Basin Electric Power Cooperative  
345-kV Transmission Line Project – Williams County  
Siting Application**

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

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

**March 5, 2024**

**Appearances**

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

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) filed a consolidated application for a certificate of corridor compatibility and a route permit (Application) concerning approximately 14.6 miles of 345-kV electric transmission line and associated facilities in Williams County, North Dakota.

On December 13, 2023, the Commission found the application for a certificate of corridor compatibility and a route permit complete, and issued a Notice of Filing and Notice of Public Hearing (Notice) scheduling a hearing for February 1, 2024, at 9:00 a.m. Central Time at the Willison 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, construction, 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 February 1, 2024, the hearing was held as scheduled.

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:

### **Findings of Fact**

1. Basin is a North Dakota cooperative association authorized to do business in the State of North Dakota since May 5, 1961, as evidenced by the corporate papers filed with the Commission on January 27, 2023 (see Case No. PU-23-42).

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

2. The Project will consist of approximately 14.6 miles of new, 345-kV electric transmission line and associated facilities to be located in Williams County, North Dakota. The Project will originate at the existing Pioneer Generation Station, located approximately 3 miles west of Williston, North Dakota, and terminate at the existing Judson substation, in Williams County, North Dakota (Project).

3. The Project consists of approximately 81 steel structures. The Project will have drilled concrete piers for the structure foundations. Permanent guy wires will not be used. Structure height will vary depending on the required span distances due to the topography from 105 to 165 feet tall.

4. Basin seeks a Project corridor that is 150 feet wide. The requested corridor is 150 feet wide for the Project as depicted in Hearing Exhibit 5 (Survey Area).

5. The Project will use an aluminum conductor of 1.72 inches in diameter with a composite carbon fiber conductor core. The minimum conductor clearance to ground will be 30 feet at maximum operating conditions.

6. The total cost of the Project is estimated to be \$31 million.

#### Study of Preferred Location

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

- a. Federal: (1) U.S. Army Corps of Engineers; (2) U.S. Fish and Wildlife Service; (3) Minot Air Force Base
  - b. State: (1) State Historical Society of North Dakota; (2) North Dakota Department of Environmental Quality – Environmental Health Section; (3) North Dakota Parks and Recreation Department; (4) North Dakota State Water Commission; (5) North Dakota Department of Trust Lands; (6) North Dakota Geological Survey; (7) North Dakota Game and Fish Department; (8) North Dakota Department of Commerce; (9) North Dakota Transmission Authority; (10) North Dakota Department of Transportation
  - c. Local: (1) Williams County ; (2) Williams County Water Resource District; (3) Judson Township; (4) Round Prairie Township; (5) Hebron Township
8. Basin Conducted surveys for wildlife, threatened and endangered species, critical habitats, wetlands, waterbodies across a one-mile wide area centered on the Project route (Study Area).
9. Basin conducted a Class I cultural resource literature search on the Study Area.
10. Basin conducted a Class III cultural resource inventory and various natural resource field surveys across the Survey Area. The North Dakota State Historic Preservation Office reviewed Basin's findings and concurred that there were no significant sites in the Study Area.

#### Siting Criteria

11. The Commission has developed criteria pursuant to North Dakota Century Code (NDCC) section 49-22-05.1 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.
12. Basin evaluated the Project with respect to the Exclusion, Avoidance, Selection, and Policy criteria of the Commission.
13. 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 width unless there is no reasonable alternative.
14. Basin's surveys did not identify any Exclusion Areas within the Survey Area.
15. 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.

16. Basin's surveys did not identify any Avoidance Areas within the Survey Area.

17. 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.

18. Basin has analyzed the impacts of the Project in relation to all of the relevant Selection Criteria. No significant adverse impact will result from the location, construction, and operation of the Project.

19. 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.

#### Measures to Minimize Impact

20. Basin has agreed to a number of steps to mitigate the impact of the Project as indicated by the Certification Relating to Order Provisions – Transmission Facility Siting with accompanying Tree and Shrub Mitigation Specifications filed in this proceeding, which is incorporated by reference and attached to this Order.

21. 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.

22. Basin will implement the following erosion and sediment control mitigation measures for the Project: excess subsoils and rocks will be hauled off-site to an approved landfill; erosion and sediment controls will be established prior to construction and thereafter maintained and controlled through application of a storm water pollution prevention plan; where appropriate, silt fences or other sediment control measures will be used to prevent sediment from moving off-site; maintenance will be scheduled during periods of minimum precipitation; temporary laydown areas will be located in previously disturbed areas and/or areas previously surveyed for cultural and biological resources.

23. Basin 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 has an OSHA-based safety program supported by the Energy Coalition for Contractor Safety for all contractors that work for the Cooperative.

From the foregoing Findings of Fact the Commission makes the following conclusions of law:

### **Conclusions of Law**

1. The Commission has jurisdiction over Basin Electric Power Cooperative (Basin) and the subject matter of these applications under North Dakota Century Code chapter 49-22.
2. Basin is a utility as defined in North Dakota Century Code section 49-22-03(13).
3. The Project proposed by Basin is an electric transmission facility as defined in North Dakota Century Code section 49-22-03(6).
4. 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.
5. The Project is compatible with the environmental preservation and the efficient use of resources.
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.

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

### **Order**

The Commission orders:

1. Basin's consolidated application for a certificate of corridor compatibility and a route permit is granted.
2. Certificate of Corridor Compatibility No. 231 is issued to Basin Electric Power Cooperative designating a corridor for the construction, operation, and maintenance of approximately 14.6 miles of 345-kV electric transmission line and associated facilities in Williams County, North Dakota. For purposes of the Certificate, the designated corridor is 150 feet wide for the Project as depicted in Hearing Exhibit No. 6.

3. Route Permit No. 241 is issued to Basin Electric Power Cooperative designating a route for the construction, operation, and maintenance of approximately 14.6 miles of 345-kV electric transmission line and associated facilities in Williams County, North Dakota. For purposes of the Permit, the designated route is the proposed route depicted in Hearing Exhibit No. 6.
4. The February 1, 2024 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.
5. Basin Electric Power Cooperative is authorized to clear trees wider than 50 feet from structure 40 to 41, 78 to 79, 119 to 120, 127 to 128, 133 to 135, 142 to 143, 154 to 155, and near structures 69, 92, 130 and 158 as depicted in Hearing Exhibit 6.
6. To the extent that there are any conflicts or inconsistencies between Basin Electric Power Cooperative's Application in this proceeding and the Certification, the Certification provisions control.
7. Basin Electric Power Cooperative 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.
8. Basin Electric Power Cooperative 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 granted in this proceeding.

Dated at Bismarck, North Dakota this 28<sup>th</sup> day of February, 2024.

State of North Dakota  
Public Service Commission



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

STATE OF NORTH DAKOTA  
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CERTIFICATE OF SERVICE  
February 27, 2024

The undersigned certifies that the original of the **RECOMMEND FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER** was mailed, inside mail, at the State Capitol, on the 28 day of February 2024, to:

John Schuh  
Public Service Commission  
State Capitol  
600 East Boulevard Avenue  
Bismarck, ND 58505 0480

and that true and correct copies of the above document was mailed, regular mail, on the 28 day of February 2024, to

Anine Merkens  
Basin Electric Power Cooperative  
1717 East Interstate Avenue  
Bismarck, ND 58503-0542

OFFICE OF ADMINISTRATIVE HEARINGS  
Timothy J. Dawson, Administrative Law Judge

  
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Louise Wetzel