

Before the Public Service Commission
of
The State of North Dakota

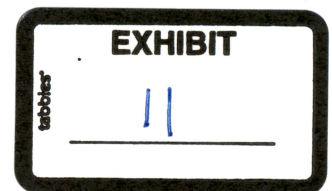
In the Matter of the Application of
BASIN ELECTRIC POWER COOPERATIVE
Consolidated Application
for a Certificate of Corridor Compatibility and Route Permit
Roundup to Kummer Ridge 345-kV Transmission Project

Case No. PU-23-361

Pre-filed Testimony
of
Mike Murray

32 **PU-23-361** Filed: 2/21/2024 Pages: 10
Exhibit 11 - Michael Murray Pre-Filed Testimony

Basin Electric Power Cooperative



I. Introduction

Q.1. Mr. Murray, please provide your name, address, and occupation.

A.1. My name is Mike Murray. My business address is 1717 East Interstate Avenue, Bismarck, North Dakota. I am employed by Basin Electric Power Cooperative (“**Basin Electric**”) as the Director of Property and Right-of-Way.

Q.2. What is your educational background and work experience?

A.2. I earned my Associates Degree in Business Administration from Bismarck State College as well as a Bachelor’s Degree in Management from Minot State University. I have been employed by Basin Electric since 1990 and have worked in the Right-of-Way Department since 2000. In my role for Basin Electric I have acquired and/or overseen the acquisition of almost 600 miles of transmission line easements.

Q.3. Are you a member of any professional associations?

A.3. I am a member of the International Right of Way Association and I have served various leadership roles at the local chapter, region, and international levels, most recently completing my two-year term as the Chair of the International Ethics Committee. I received my Senior Right-of-Way Agent designation in 2007. It is the highest designation presented by the IRWA to members who have achieved professional status through experience, education, and examination. I have over 420 hours of continuing education in the field of Property and Right-of-Way through the International Right of Way Association.

Q.4. What is your role in connection with the proposed Project?

A.4. I have assigned one of our Basin Electric Senior Right-of-Way Specialists to take the lead on this project, as well as added a team of contracted agents through our Right-of-Way Consultant. My role is to oversee the activity and progress of these agents and provide assistance where necessary, although I was also directly involved in negotiations with several landowners on the Project. I also have participated in our weekly project status meetings and am regularly communicating with our project manager, routing engineer, and other team members to stay informed so I can provide guidance to achieve the successful outcome of acquiring all necessary land rights.

II. Contact with Landowners

Q.5. **Please summarize the extent of contacts that the Basin Electric's Right-of-Way team has made with the landowners for the Project.**

A.5. There are a total of 27 private landowners, Tribal Trust Lands, one State Agency, and three Federal Agencies for the Project. The Tribal Trust Lands are owned by MHA Nation, the State Agency is the North Dakota Department of Trust Lands and the Federal Agencies include the BLM, BIA and the Corps of Engineers. Our Right of Way team is responsible for contacts with the private landowners MHA Nation and the North Dakota Department of Trust Lands. Our Environmental team handles the Federal Agencies.

Starting in 2013, Basin Electric began contacting landowners along the Project Corridor to introduce the Project and seek survey permissions. In early 2014, we began acquiring easements for the Project. The Project was then put on hold in 2016, where we had approximately 14 miles acquired at that time. When SPP re-issued its Notice to Construct, landowner contacts resumed in the spring of 2022 for any new surveys needed and to continue easement acquisition.

We have contacted each landowner on the proposed route many times. Most of these contacts were made in-person. Some landowners were contacted by phone or letter out of necessity. Many have been contacted multiple times for various reasons, such as:

- To discuss the Project with them and to ask for consent to perform survey activities.
- To notify when various field survey activities will take place.
- To review the route and discuss any issues or concerns they may have.
- Working out adjustments in routing where feasible.
- To negotiate the easement, which often takes several visits.
- To keep the landowner apprised of any changes in location or design of the Project.

Frequent landowner contacts will continue throughout the construction, reclamation, and damage settlement phases of the Project.

Q.6. **As part of your contacts and interactions with landowners, do you keep a record of these conversations?**

A.6. Yes, we keep a detailed contact diary for each interaction with every landowner as well as a complete file for every landowner parcel.

Q.7. How are landowner requests or comments handled?

A.7. If the landowner has any specific concerns with the route or structure locations during our meetings, we let them know the structure locations are preliminary and discuss why those locations were chosen. Should that landowner desire to shift one or more specific structures or propose a route adjustment, we discuss the request with Basin Electric engineering staff to see what is feasible and share the results with the landowner.

Shifts in structure locations specific to the route include accommodations to route the line within or near existing utility corridors, along property lines, within a fence lines, spot structures within tree rows, minimize cropland impacts, accommodate spacing for farm equipment sizes, and avoid proposed oil and gas facilities. We had very productive routing discussions with landowners with satisfactory outcomes.

Q.8. Are the easements that will be obtained for the Project limited to a specific purpose?

A.8. Yes. The easements only allow Basin Electric the right to install, repair, replace, and maintain a single circuit transmission line and no other purposes are included or allowed within that easement.

Q.9. What activities will be restricted within the easement area?

A.9. Basin Electric restricts placement of permanent structures under transmission lines, planting trees, stockpiling materials under the line or any activity that would present a safety concern for the landowner or make operating the line a safety hazard. There are, however, numerous compatible uses of the corridor that do not interfere with the safe and reliable operation of our facilities. Uses such as farming and ranching require no approval by Basin Electric.

Q.10. How many total landowners' properties would be crossed with the Project and what percentage of the easements has Basin Electric acquired?

A.10. There are 27 private landowners in the proposed corridor and we have signed

easements with 26 of those or 96%. We also acquired two easements from the North Dakota Department of Trust lands. We still need a grant of easement from the BIA for the 100% Tribal Trusts lands where we will cross MHA Nation in which we have reached an agreement with MHA Nation by approved Resolution and this is currently going through the BIA process. Lastly, we need a permit from the Bureau of Land Management (BLM) and a real estate license from the Corps of Engineers in which Erin Dukart addressed the status in her testimony.

Q.11. Does Basin Electric have the right of eminent domain with this Project?

A.11. Yes. As a rural electric cooperative, Basin Electric is a utility and has the right of eminent domain.

Q.12. What is Basin Electric's position on the use of eminent domain?

A.12. Basin Electric uses its right of eminent domain only as a last resort.

III. Route Selection

Q.13. Please describe the various considerations Basin Electric used to determine the proposed route.

A.13. Many considerations were taken into account in the routing of this line. The Commission's criteria, including Avoidance and Exclusion areas, topographic features, farmsteads, oil well pads – including existing, permitted and planned; various land uses, existing utility corridors, engineering constraints, access issues and landowner acceptance as well as stated concerns were all a part of the process. Where feasible, many reroutes took place along this line to minimize landowner concerns.

Q.14. Can you describe the efforts Basin Electric has made to avoid impacts to oil and gas activities during the siting of the Project?

A.14. Throughout the permitting and planning process of the Project, we have been in contact with the pipeline and oil pad operators to ensure that there are no conflicts with existing or planned pads or pipelines. These discussions resulted in numerous route and structure siting modifications as well as providing AC mitigation studies for pipelines where requested. Basin Electric has applied with each known operator in the Project area for crossing permits to avoid construction conflicts with oil and gas

activities.

Q.15. **Please describe the route for the Project and alternate route segments which were considered.**

A.15. ***Segment 1 Roundup Substation Take Off Structure to Angle Point 13***

This segment is approximately 7.4 miles in length. The existing Roundup Substation is the starting point for this segment, The Roundup Substation is located in the NE/4 of Section 3, T145N, R95W which is approximately 2.25 miles north of Killdeer, ND in Dunn County.

Segment 1 begins at the take off structure in the Roundup Substation and then heads in a slight northwesterly direction for approximately 0.4 miles to AP 2 located in the S/2 of Section 34, T146N, R95W, to align with the north to south quarter line in Section 34. The route then proceeds due along the quarter line for approximately 0.7 miles to AP 3. The route then heads in a northwesterly direction for approximately 0.6 miles to AP 5 located in the SW/4 of Section 27, T146N, R95W. The route then proceeds due north along the east side of the section line for approximately 1.8 miles to AP 6 located in the NW/4 of Section 22, T146N, R95W. The route then heads in a northwesterly direction for approximately 3.8 miles to AP 13 located in the SW/4 of Section 6, T146N, R95W.

This segment of the transmission line was routed to accommodate landowner requests, minimize cropland impacts, avoid well sites, avoid archeological sites and align with ND HWY 22.

We did evaluate potentially routing a little further north before heading west to highway 22 in order to address a landowner's concern, but access would have been very challenging.

Segment 2 – Angle Point 13 to Angle Point 23

This segment is approximately 3.4 miles in length. From AP 13 the route heads due north along the east side of ND HWY 22 for approximately 3.4 miles to AP 23 located in the NW/4 of Section 19, T147N, R95W. This segment of the transmission line was routed to accommodate landowner requests and take advantage of the ND HWY 22

Corridor. The ND DOT permit was acquired, which included rights for some minor overlap with the ND DOT ROW and the crossing of the HWY.

No other alternate routes were evaluated as this was the only feasible route available and all landowners were supportive.

Segment 3 – Angle Point 23 to Angle Point 36

This segment is approximately 5.4 miles in length. From AP 23 the route heads generally in a northwesterly direction for approximately 3.5 miles to AP 30 located in the NE/4 of Section 2, T147N, R96W. The route then heads back in a northeasterly direction for approximately 1.8 miles to AP 36 located in the SW/4 of Section 25, T148N, R96W.

This line segment was routed in a manner to take advantage of an existing utility corridor, the limited access roads and trails due to the very rugged terrain, and to align for an appropriate crossing of the Little Missouri River. This took a lot of coordination with the area landowners to come up with the best route.

Multiple alternate routes were evaluated to the west of the proposed route. Due to landowner opposition to those alternate routes, limited accesses, higher density of trees, and more significant areas of instability of the soil, these alternates routes were dropped from consideration.

Segment 4 – Angle Point 36 to Angle Point 48

This segment is approximately 6.3 miles in length and is the crossing of the MHA Nation Tribal trust Lands. From AP 36 the route zig zags in a northerly direction for approximately 1.4 miles to AP 41 located in the SW/4 of Section 24, T148N, R96W. The purpose of this zig zag was to climb out of the river bottoms through very rugged terrain to get to higher ground. From AP 41 the route takes a couple diagonals to the northeast for approximately 2.4 miles to AP 45 located in the SW/4 of Section 7, T148N, R95W. Then the route heads in a northwesterly direction for 1.46 miles and then northeasterly for approximately 1 mile to AP 48 located in the SW/4 of Section 34, T149N, R95W.

This segment of line was routed in close coordination with the MHA Nation in an attempt to follow an existing utility corridor, take advantage of existing access roads and trails, and avoid well sites. This is also the segment of line that crosses out of Dunn County and into McKenzie County.

An alternate route to the west of the proposed route was evaluated but dropped from consideration due to landowner resistance, access difficulties, higher density of trees and more significant areas of soil instability. Also, the MHA Nation was open to working with us on a route through their Tribal trust Lands.

Segment 5 – Angle Point 48 to Angle Point 51

This segment is approximately 3.4 miles in length. From AP 48, the route heads in a slight northwesterly direction for 0.8 miles to AP 50 located in the SW/4 of Section 27, T149N, R95W. Then the route takes a sharp diagonal to the northwest for approximately 2.6 miles to AP 51 located in the NE/4 of Section 19, T149N, R95W.

The segment was routed to avoid oil and gas facilities, utilize gentler topography, and generally follow the Bear Den Road to provide more access options.

An alternate route to the west of the proposed route was evaluated but dropped from consideration due to landowner resistance, challenging terrain, access issues, well site congestion, and instability of the soil.

Segment 6 – Angle Point 51 to the Kummer Ridge Substation

The segment is approximately 6.6 miles in length. From AP 51, the route heads in a northerly direction for approximately 1.3 miles, then northwesterly for approximately 1.6 miles, then due north for approximately 1 mile, then northwesterly for approximately 2.3 miles, then due north for approximately 0.5 miles terminating at the Kummer Ridge Substation, which is located in the N/2 of Section 23, T150N, R96W, which is ½ mile southeast of Johnson's Corner in McKenzie County.

The segment was routed in an attempt to avoid most of the cropland, oil and gas facilities, and accommodate landowner concerns and feedback regarding the route.

An alternate route to the west of the proposed route was evaluated but dropped from consideration due to existing and proposed well sites.

IV. After Construction

Q.16. What is the role of the Property and Right-of-Way Department in reclaiming the corridor at the completion of construction?

A.16. The Property and Right-of-Way Department will oversee the entire reclamation process. A licensed and certified reclamation contractor will report directly to our Property and Right-of-Way team, and we will be on site on a regular basis to monitor progress and make sure reclamation is completed to landowners and Basin Electric's satisfaction.

Q.17. Please describe Basin Electric's reclamation practices for transmission line corridors.

A.17. The construction contractor will be responsible for re-grading all disturbed easement and access areas. Basin Electric will then retain a licensed local contractor who specializes in the reclamation techniques required to stabilize the soils and re-establish the growth or cover all of the disturbed areas of the Project.

In crop land, compaction will be addressed and landowners will be compensated for damage to any crops during construction as well as any prevent plant situations due to the construction activity. In pastureland, our reclamation contractor will re-seed to the same species of grasses present prior to construction unless otherwise directed by the owner. In Conservation Reserve Program (**CRP**) fields, we will replant the cover based on the local Dunn and McKenzie County USDA-FSA offices rules and guidance. Landowners will be consulted with throughout the reclamation practice to make sure they are satisfied. All damages associated with our activities will be addressed with the landowner for settlement at completion of construction.

Surface soil erodibility is unique to this Project route, so efforts will be made to use various techniques to stabilize the soils as we re-establish any vegetation that was removed or destroyed. Techniques will include, but not be limited to, straw wattles, mulches, matting, erosion control blankets, water bars, riprap, etc.

Disturbed areas will be monitored for erosion. Erosion control may include the installation and maintenance of necessary measures for temporary and permanent erosion, sedimentation, and dust control as required by relevant agencies and the property owner. Inspection and maintenance will be completed by Basin Electric or a Basin Electric representative to ensure compliance with Project reclamation specifications.

Basin Electric will work with landowners regarding tree replacements. This will be done according to the Commission's Tree and Shrub Mitigation Plan. Basin Electric will be responsible for weeds by providing weed control within the easement area during construction and reclamation as well as noxious weeds whenever necessary during and after construction. During operation of the transmission line Basin Electric will continue to reclaim the corridor and settle any damages caused during maintenance activities.