

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

**Basin Electric Power Cooperative  
345-kV Transmission Line**

**Case No. PU-23-361**

**Roundup Substation to Kummer Ridge Substation  
Application for a Certificate of Corridor Compatibility and Route Permit**

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

**February 16, 2024**

**Appearances**

Chairman Randy Christmann, Commissioner Julie Fedorchak, Commissioner Sheri Haugen-Hoffart.

Hope L. Hogan, 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 December 15, 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 32.5 mile-long, 345-kV transmission line in Dunn and McKenzie counties, North Dakota (**Project**) in accordance with the requirements of North Dakota Century Code (**NDCC**) chapter 49-22 and North Dakota Administrative Code (**NDAC**) article 69-06.

On January 4, 2024, the Commission deemed Basin Electric's Application complete and issued a Notice of Filing and Public Hearing (**Notice**) scheduling a hearing for February 16, at 8:30 a.m. Mountain Time at the High Plains Community Center, 100 Fifth Avenue Southwest, Killdeer, ND 58640.

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 16, 2024, the hearing was held as scheduled, allowing interested parties to present testimony at the High Plains Community Center. Hearing Exhibits 1 through 11 were admitted at the hearing.

Having allowed 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 32.5 miles of 345-kV electric transmission line from the existing Roundup substation to the existing Kummer Ridge substation. The Roundup substation is in Dunn County, approximately 2.8 miles north of Killdeer ND. The Kummer Ridge substation is in McKenzie County, approximately 0.7 miles west of Johnson's Corner, North Dakota. (**Project**). The Project route includes 21.6 miles in Dunn County and 10.9 miles in McKenzie County, of which approximately 6.5 miles of which are located within the Fort Berthold Reservation Trust Land. The Project further crosses 0.25 miles of Bureau of Land Management property, and 3.2 miles across North Dakota State Trust Lands.

3. The Project consists of approximately 170 transmission structures including 109 single-pole and 61 H-frame steel structures. The Project will have drilled concrete piers for the majority of the structure foundations. The tangent H-frame structures will be directly embedded in the ground. Structure height will vary depending on the required span distances due to the topography.

4. 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.

5. The estimated cost of the Project is \$74 million.

6. Basin Electric plans to complete construction and energize the Project by November 30, 2024. Post-construction activities such as reclamation will likely continue in to 2025.

### Need for Facility

7. The need for the Roundup – Kummer Ridge 345-kV transmission line is due to electric load growth in the Bakken, specifically the Williston and Watford City areas. The Southwest Power Pool (**SPP**) is the regional transmission organization that administers bulk electric transmission system reliability upgrades and generation interconnections in this area. SPP's Interregional transmission planning process concluded that the Project is the best option to mitigate the severity of an unexpected outage on the existing Charlie Creek to Patent Gate 345-kV line. The Project also provides a second redundant feed to the electric load served at the Kummer Ridge Substation.

### Study of Preferred Location

8. Basin Electric selected the Project route based on a number of factors including: compliance with NDCCC chapter 49-22 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.

9. Basin Electric and its representatives contacted key local, state, and federal agencies for assistance in identifying concerns or issues within the study area per NDAC section 69-06-01-05.

10. 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 125 to 350 feet-wide aligned with the Project corridor. The North Dakota State Historic Preservation Office (**SHPO**) reviewed the original report and determined the report acceptable. An additional report covering additional areas has been prepared and submitted. All SHPO recommendations will be 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.

11. 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 began contacting landowners along the Project corridor to introduce the Project and seek survey permissions in 2013 and began acquiring easements in 2014. The Project was then put on hold in 2016. Basin Electric resumed contacting landowners in the spring of 2022 after SPP reissued the Notice to Construct. There are 27 private landowners along the route, of which Basin Electric has obtained easements from 26. The two easements from the North Dakota Department of Trust lands have been acquired. Basin Electric has received a signed Resolution from Mandan Hidatsa Arikara (**MHA**) Nation supporting approval for a grant of easement from the Bureau of Indian Affairs to cross the tribal trust lands of the MHA Nation. Basin Electric anticipates land grants from the Bureau of Land Management following completion of the agency's environmental review. Also outstanding is a real estate license from the Army Corps of Engineers.

### Siting Criteria

12. The Commission has established criteria pursuant to NDCC 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.

13. Basin Electric selected a one-mile-wide study area and a corridor of 125-350 feet-wide, which is the easement size that will be used for construction and maintenance for the life of the Project. The corridor will be 150 feet-wide for the majority of the Project except where an agency requested a 125 feet wide corridor and will range up to 350 feet-wide where the Project requires longer spans between structures. The Project corridor encompasses the Project route.

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

15. 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.

16. Basin Electric's surveys of the study area concluded that there is an Exclusion Area of suitable habitat for the Dakota skipper and the northern long-eared bat. Basin Electric retained a consultant to conduct a field habitat study to identify areas of potential habitat for the Dakota Skipper butterfly and northern long-eared bat. The studies indicated the Project corridor and route are suitable for the Dakota skipper and northern long-eared bat. Basin Electric will avoid the Dakota skipper habitat and clear trees during the timeframe provided by the U.S. Fish and Wildlife Service or perform absence surveys to mitigate impacts to any potential habitat of the northern long-eared bat.

17. 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.

18. There are archaeological sites present in the Project corridor as identified through a Class I Literature Review and Class III Cultural Resources Inventory. Basin Electric's consultant identified 12 previously recorded sites and two isolated finds. Six new sites and two isolated finds were discovered and recorded. The Project has been designed to avoid all cultural resources. The Project route also contains areas within landslide deposits as mapped by the North Dakota Geological Survey. The selected route minimizes structure locations within the landslide deposits and follows the path of an existing infrastructure and access corridor.

19. Basin Electric 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.

20. 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.

21. 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 agriculture; sound sensitive lands; visual effects to the surrounding area; extractive and storage resources; wetlands, trees, shrubs, and plant life; communication facilities; or human and animal health.

22. 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 to meet the Policy Criteria.

23. Basin Electric submitted evidence into the docket that demonstrates its commitment to comply with the factors the Commission is to consider as set forth in NDCC section 49-22-09.

24. 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.

25. Basin Electric will implement Avian Power Line Interaction Committee (**APLIC**) Best Management Practices to minimize avian collision risk with transmission lines (i.e., line marking).

#### Additional Measures to Minimize Impact

26. 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.

27. 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 Roundup and Kummer Ridge substations 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 (**ECCS**) for all contractors that work for the Cooperative.

28. 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 the maintenance activities. Basin Electric will provide weed control during the construction and reclamation and 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 32.5 miles of 345-kV transmission line in Dunn and McKenzie counties, North Dakota. The Project corridor will be 125 to 350 feet-wide.

3. Route Permit No. \_\_\_\_ is issued to Basin Electric Power Cooperative designating a route for the construction, operation, and maintenance of approximately 32.5 miles of 345-kV transmission line and substation in Dun and McKenzie counties, North Dakota.

4. The Certification Relating to Order Provisions – Transmission Facility Siting (**Certification**) with accompanying Tree and Shrub Mitigation Specifications, executed February 16, 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 Christman**  
**Chairman**

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**Sheri Haugen-Hoffart**  
**Commissioner**