

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Northern Divide Energy Storage, LLC
Northern Divide Energy Storage – Burke County
Siting Application**

Case No. PU-24-371

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Geralyn R. Schmaltz deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **19th day of February 2026**, she deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

- **Findings of Fact, Conclusions of Law and Order**

And Original Of:

- **Site Certificate Number 74**

The envelope was addressed as follows:

Casey Furey
Crowley Fleck PLLP
PO Box 2798
Bismarck, ND 58502-2798
Cert. No. 9589 0710 5270 2708 2431 20

Geralyn R. Schmaltz further deposes and says that on the **19th day of February 2026**, she deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of the same.

The envelope was addressed as follows:

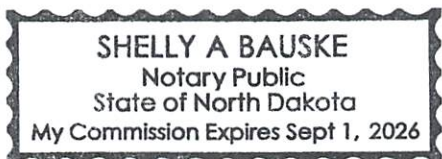
Erik Edison
Crowley Fleck PLLP
PO Box 2798
Bismarck, ND 58502-2798
Cert. No. 9589 0710 5270 2708 2431 37

Each address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me
this **19th day of February 2026**.

Shelly A. Bausk

SEAL



Shelly A. Bausk
Notary Public

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Northern Divide Energy Storage, LLC
Northern Divide Energy Storage – Burke County
Siting Application**

Case No. PU-24-371

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

February 18, 2026

Appearances

Commissioners Randy Christmann, Sheri Haugen-Hoffart, and Jill Kringstad.

Hope L. Hogan, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street, Suite 303, Bismarck, ND 58503.

Casey A. Furey, and Erik J. Edison, Crowley Fleck PLLP, 100 West Broadway Avenue, Suite 250, Bismarck, ND 58501, on behalf of Applicant, Northern Divide Energy Storage, LLC.

Mitchell D. Armstrong, Special Assistant Attorney General, Counsel for the North Dakota Public Service Commission, 122 East Broadway Avenue, Bismarck, ND 58501.

Preliminary Statement

On November 19, 2024, Northern Divide Energy Storage, LLC (Northern Divide) filed an application for a certificate of site compatibility for a 100 megawatt (MW) battery energy storage system (BESS) with a four-hour duration known as the Northern Divide Energy Storage Project (Project), to be located in Burke County, North Dakota.

On August 29, 2025, Northern Divide filed an amended application.

On November 6, 2025, the Commission issued a Notice of Filing and Notice of Public Hearing (Notice) scheduling a public hearing for December 19, 2025, at 10:00 a.m. Central Time, at the Bowbells Memorial City Hall, 100 Main Street Northwest, Bowbells, North Dakota 58721.

The Notice identified the following issues to be considered in this proceeding:

1. Will the Location and operation of the proposed facility 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 the proposed facility 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 December 19, 2025, the public 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. Northern Divide Energy Storage, LLC is a Delaware limited liability company.
2. Northern Divide Energy Storage, LLC is authorized to transact business in the State of North Dakota, as evidenced by the Certificate of Good Standing issued by the North Dakota Secretary of State and filed with the Commission in Case No. PU-24-374.
3. The Project will be owned and operated by Northern Divide Energy Storage, LLC.

Size, Type and Preferred Location of Facility

4. Northern Divide proposes to construct the Project within approximately 21 acres in the Southeast ¼ of Section 17, Township 161 North, Range 93 West, in Burke County, North Dakota as depicted in Exhibit 6 (Project Site).
5. The Project is a 100 MW, four-hour duration BESS equating to 400 megawatt hours of total energy capacity.
6. The Project consists of BESS containers that house battery modules. Each battery module is equipped with a battery management system that continuously monitors and regulates parameters such as voltage, temperature, and state of charge to maintain operational integrity and safety. The Project will use American-made, LG-brand lithium-ion batteries.
7. The Project includes a power conversion system (PCS) to convert direct current (DC) stored within the BESS to alternating current (AC) suitable for grid integration. The Project also includes an electrical collection system to connect the BESS to Northern Divide Wind, LLC's existing collection substation. The PCS and electrical collection system ensure the efficient and reliable transfer of energy between the Project and the grid.

8. To maintain the Project's required energy capacity over its operational life, periodic battery augmentation is planned to offset the gradual capacity reduction in the original battery systems. As batteries naturally degrade over time, new battery containers will be integrated within the Project's existing footprint to maintain the contracted energy levels. The Project's design accounts for planned augmentation, which will not increase the Project's nameplate capacity. Throughout the life of the Project, additional BESS containers and PCSs will be integrated into the Project's existing footprint, with approximately 129 BESS containers and 43 PCSs anticipated to be on site at the end of the Project's life.
9. The Project will share Northern Divide Wind, LLC's collection substation, transmission and point of interconnection. Northern Divide will tie into the existing collection substation by installing the necessary control and safety equipment to facilitate the safe transfer of energy. The existing substation will undergo minor modifications to accommodate the Project's connection to the grid, including support structures, circuit breakers, reactors, fence expansion, and grading.
10. The energy supplied to the BESS will originate from the grid through the collection substation and transmission line shared with Northern Divide Wind, LLC. The activity of Northern Divide and Northern Divide Wind, LLC will be accounted for individually. Exhibit 9 depicts how the BESS will interconnect to the grid: energy will be stored by the BESS until the BESS receives a dispatch signal, at which point the BESS will transmit the stored energy to the grid via the existing collection substation and transmission line to the Basin Electric Cooperative Tande Substation.
11. Additional Project facilities include inverters, transformers, underground cables, site access and parking, fencing and security, signage, and stormwater facilities.
12. Northern Divide has purchased the land for the Project site.
13. Northern Divide has executed an Energy Storage Agreement with Basin Electric Power Cooperative. The agreement has a term of 24.5 years.
14. Construction of the Project is anticipated to begin in 2026. Testing and Commercial operations of the Project is anticipated to commence in December 2026.
15. The estimated total cost to construct the Project is approximately \$128.6 million.

Study of Preferred Location

16. Northern Divide sent coordination letters to the federal, state, and local departments, agencies, and entities designated in North Dakota Administrative Code (NDAC) section 69-06-01-05. North Dakota Century Code (NDCC) section 49-22-16(4) provides that compliance with an agency's rules shall be presumed if the agency fails to

present its position with respect to the proposed facility at least thirty days before the public hearing. The federal, state, and local departments, agencies, and entities that provided comment in response are as follows:

- a. Federal – United States Army Corps of Engineers; Natural Resources Conservation Service.
- b. State – North Dakota Parks and Recreation Department; North Dakota Department of Environmental Quality; North Dakota Department of Trust Lands; North Dakota Game and Fish Department; North Dakota Department of Transportation; Job Service of North Dakota; North Dakota Department of Water Resources; North Dakota Geological Survey; and the State Historical Society of North Dakota.
- c. Local – Burke County.

17. Agency consultations and comments are noted in the Application, exhibits, and testimony presented at the public hearing.

18. NDCC section 49-22-16(2) provides that no energy conversion facility site shall be designated that violates any local land use, zoning, or building rules, regulations, or ordinances. Northern Divide has obtained a conditional use permit from Burke County for the Project. Exhibit No. 14.

19. Northern Divide evaluated the Project and its potential impacts on the area within one mile of the Project Site. Northern Divide completed the following studies and surveys: Acoustic Assessment; Class I and Class III Cultural Resource Inventory Report; and a Natural Resources Inventory Report. Pursuant to the results of these studies and surveys, Northern Divide filed the following reports in support of its Application:

a. Acoustic Assessment:

- i. There are no federal or state laws or regulations applicable to sound levels generated by the Project.
- ii. Burke County has a zoning regulation that provides: "A BESS shall not emit sound exceeding 45 dBA Ldn (24-hour) within 100-feet of an Occupied Structure." When converted to the standardized energy equivalent level (Leq) metric used in the Acoustic Assessment, a sound level limit of 45 dBA Ldn equates to a 24-hour continuous sound level of 39 dBA Leq.
- iii. Northern Divide performed acoustic modeling for the Project, and modeling results indicate that the maximum predicted noise level will be

34 dBA within 100 feet of the nearest receptor to the Project, which is located 4,230 feet from the Project.

b. Class I and Class III Cultural Resources Inventory Report:

- i. The Class I inventory involved a review of documentation on file at the North Dakota State Historic Preservation Office (SHPO) regarding archaeological and historic resources that may exist within the Study Area as well as a review of previous cultural resources inventories conducted within the same radius.
- ii. The Class III inventory encompassed a pedestrian survey of the entire Project Area. No cultural resources were identified during the Class III inventory.
- iii. The Class I and Class III inventory report for the Project was submitted to SHPO. In a letter dated January 9, 2024, the SHPO determined that there are no significant sites affected by the Project.

c. Natural Resources Inventory Report:

- i. Northern Divide conducted a wetlands and other waters delineation survey, during which no wetlands or other waters were delineated within the Project Area.
- ii. Northern Divide conducted a federally listed species evaluation. No federally listed species were observed during the field surveys. No suitable habitat for northern long-eared bat, piping plover, rufa red knot, Dakota skipper, or whooping crane was observed during field surveys within the Project Area. The surveys assessed wetland and grassland conditions, and no features indicative of preferred habitat for these species were identified. As a result, no adverse impacts to threatened and endangered species are anticipated.
- iii. Northern Divide conducted a raptor nest survey that identified two non-eagle raptor nests within the Study Area, which were unoccupied at the time of the surveys. No raptor nests were documented within the Project Area.
- iv. Northern Divide conducted a tree and shrub inventory. Should any trees or shrubs require removal, Northern Divide will replace them in accordance with the Commission's Tree and Shrub Mitigation Specifications.

20. Northern Divide also conducted a subsurface exploration and geotechnical engineering study for the Project. No areas of geologic instability were identified within the Project Area.

Siting Criteria

21. NDAC section 69-06-08 sets forth certain criteria to guide the Commission in evaluating the suitability of granting an application for a certificate of site compatibility. The criteria, as set forth in NDAC section 69-06-08-01 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

22. Northern Divide evaluated the Project with respect to the Exclusion, Avoidance, Selection, and Policy Criteria of the Commission.

23. NDAC section 69-06-08-01(1) sets forth the Commission's Exclusion Area criteria applicable to the Project. An energy conversion facility shall not be sited within an Exclusion Area.

24. Northern Divide's studies and surveys did not identify any Exclusion Areas within the Project Area.

25. NDAC section 69-06-08-01(2) sets forth the Commission's Avoidance Area criteria applicable to the Project. An energy conversion facility must not be sited within an Avoidance Area unless the applicant shows 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.

26. Northern Divide's studies and surveys did not identify any Avoidance Areas within the Project Area.

27. NDAC section 69-06-08-01(5) sets forth the Commission's Selection Criteria applicable to the Project. In accordance with the Commission's Selection Criteria, a site may be approved in an area when it is demonstrated to the Commission by the applicant that any significant adverse effects resulting from the location, construction, and operation of the facility in that area as they relate to the criteria designated in NDAC section 69-06-08-01(5) will be at an acceptable minimum, or that those effects will be managed and maintained at an acceptable minimum.

28. Northern Divide selected the Project site, which consists of cropland, based on its proximity to Northern Divide Wind, LLC's existing infrastructure, specifically the collection substation and 345-kV transmission line, as depicted in Exhibit 6. By siting the Project near existing infrastructure, Northern Divide aimed to minimize impacts on the

environment and surrounding community, enhance operational efficiency, and condense development into a compact area.

29. The Project will not have significant adverse impacts on public services or health and safety in the affected area.

30. During construction, the Project may result in a temporary increase in traffic on county roads. Northern Divide will coordinate with Burke County regarding a road use agreement for the use of county roads during construction as applicable, and the NDDOT to obtain an approach permit for the access road. During operation, no adverse effects to transportation facilities or networks are anticipated.

31. The Project is not anticipated to have a significant adverse impact on surface or ground water resources or soils. Temporarily disturbed areas will be restored and reseeded.

32. Northern Divide submitted evidence that the Project will not have a significant adverse impact on the Selection Criteria set forth in NDAC section 69-06-08-01(5).

33. NDAC section 69-06-08-01(6) sets forth the Commission's Policy Criteria applicable to the Project. In accordance with the Commission's Policy Criteria, the Commission may give preference to an applicant that will maximize benefits that result from the adoption of identified policies and practices in NDAC section 69-06-08-01(6). The Commission may also give preference to an applicant that will maximize interstate benefits. There is no reason to give Northern Divide preference in this case.

Measures to Minimize Impacts

34. Northern Divide has agreed to take certain steps to mitigate the impact of the Project as indicated in the Certification Relating to Order Provisions with accompanying Tree and Shrub Mitigation Specifications, filed with the Commission as Exhibit 2.

35. Northern Divide has prepared a draft Emergency Response Plan ("ERP"), as provided in Exhibit 1, Appendix F. Northern Divide has engaged with, and will continue to engage with, local first responders and fire officials to coordinate response efforts in the unlikely event of a fire. This coordination includes:

- a. Orientation: A general orientation of the Project will be provided to first responders once key design details and access points have been established.
- b. ERP Training: Northern Divide, in collaboration with the Power Generation Division of NextEra Energy Resources, will coordinate with applicable local emergency responders for ERP training closer to the commissioning phase of the Project.

- c. Annual Refresher ERP Training: To maintain readiness, Northern Divide will provide refresher ERP training at the request of the authority having jurisdiction and first responders. This refresher training will maximize ongoing preparedness and reinforce best practices for safety and fire protection systems at the Project.
36. Prior to the start of construction, Northern Divide will prepare an Unanticipated Discoveries and Effects Plan, which will outline the steps to be taken if previously unrecorded cultural resources or human remains are encountered during construction.
37. Northern Divide has developed a Noxious Weed Management Plan and testified a copy was provided to the Burke County Weed Control Officer.
38. Northern Divide will utilize best management practices to prevent soil erosion and minimize impacts on ground and surface water. The Project is designed to avoid impacts to wetlands and other waters and allow unrestricted flow of stormwater runoff. Northern Divide will implement erosion control measures required under the National Pollution Discharge Elimination System (NPDES) permit and associated Stormwater Pollution Prevent Plan (SWPPP).
39. Northern Divide will coordinate with Burke County and its Road and Bridge Department to develop a dust mitigation plan prior to construction.
40. To further mitigate any potential environmental impact, Northern Divide will educate construction contractors on threatened and endangered species and provide contractors with training, spatial data, and static constraint maps to identify restricted areas for construction equipment. If any threatened or endangered species are identified, construction activities will pause until the species moves through the Project Area. Northern Divide will also conduct a pre-construction raptor nest survey within the Study Area to identify any newly built raptor nests. A separate nest clearance survey will also be completed within the Project Area before construction to minimize effects on nesting migratory birds.
41. There are no existing state rules or regulations governing the Project's decommissioning. At the public hearing, Northern Divide testified it will submit decommissioning financial assurance to the Commission in accordance with the Commission's existing rules governing wind energy conversion facility decommissioning and financial assurance requirements under NDAC ch. 69-09-09.
42. The Project includes a supervisory control and data acquisition (SCADA) system. The Project will generally be operated remotely from NextEra Energy Resources, LLC's Renewable Operations Control Center (ROCC), with operational control and 24/7 monitoring performed off-site via the Project's SCADA system. The SCADA and associated systems will monitor key battery metrics, including state of charge, battery health, current, voltage, temperature, and alarm indicators for off-normal conditions. In

the event of an anomaly or issue with a battery unit, the SCADA system will immediately alert the ROCC and trained personnel in the area. If necessary, the BESS can be remotely shut down from the ROCC.

43. The Project design includes four layers of protection in the BESS: (1) physical thermal barriers within BESS containers prevent cell to cell propagation; (2) the battery management system (BMS) monitors each BESS container for abnormal conditions in cell voltage, temperature, current, and ambient conditions; (3) a fire alarm control panel monitors and alarms if smoke or gas is detected in any container; and (4) the ROCC monitors the BESS facility 24 hours a day, 7 days a week, 365 days a year for alarms and abnormal conditions via the Project's SCADA system.

44. The Project is designed and will be constructed in compliance with applicable safety codes—including the International Fire Code, National Fire Protection Association (NFPA) Standard 855, the National Electric Code (NFPA 70), and Underwriters Laboratories (UL) 9540 safety standards.

From the foregoing Findings of Fact, the Commission makes the following:

Conclusions of Law

1. The Commission has jurisdiction over Northern Divide and the subject matter of the Application under NDCC Chapter 49-22.
2. Northern Divide is a utility as defined in NDCC section 49-22-03(14).
3. The Project proposed by Northern Divide is an electric energy conversion facility as defined in NDCC section 49-22-03(6).
4. The Application submitted by Northern Divide meets the site evaluation criteria required by NDCC Chapter 49-22.
5. 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.
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.
7. The location, construction, and operation of the Project are compatible with environmental preservation and the efficient use of resources.

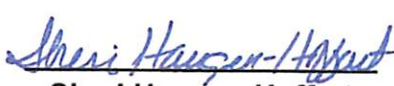
From the foregoing Findings of Fact and Conclusions of Law, the Commission issues the following:

Order

The Commission Orders:

1. Certificate of Site Compatibility for an Energy Conversion Facility No. 74 is issued to Northern Divide Energy Storage, LLC, designating a site for the construction, operation and maintenance of a battery energy storage system known as the Northern Divide Energy Storage Project corresponding to the Project Area depicted in Exhibit 6.
2. Within the permitted site, Northern Divide is authorized to site and construct up to 129 BESS containers and 43 power conversion systems, along with underground cables, fencing, roads and other associated facilities as identified in the Application.
3. Northern Divide's Certification Relating to Order Provisions with accompanying Tree and Shrub Mitigation Specifications filed with the Commission as Exhibit 2, is incorporated by reference and attached to this Order.
4. To the extent there are any conflicts or inconsistencies between Northern Divide's Application and the Certification, the Certification provisions control.
5. Northern Divide shall obtain all 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 license and permits to the Commission prior to construction of such portion.

PUBLIC SERVICE COMMISSION

		
Sheri Haugen-Hoffart Commissioner	Randy Christmann Chair	Jill Kringstad Commissioner

PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA

Site Certificate Number 74

This is to certify that the Commission has designated a site for Northern Divide Energy Storage, LLC for the construction, operation and maintenance of a battery energy storage system and associated facilities in Burke County, North Dakota.

This Certificate is issued in accordance with the Order of the Commission dated February 18, 2026, in Case No. PU-24-371 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, February 18, 2026.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

**Northern Divide Energy Storage, LLC
Northern Divide Energy Storage – Burke County
Siting Application**

Case No. PU-24-371

**CERTIFICATION RELATING TO ORDER PROVISIONS
ENERGY CONVERSION FACILITY SITING**

I am Anthony Pedroni, a representative of Northern Divide Energy Storage, LLC ("Company") with authority to bind Company to requirements to be set forth by the Commission in its Order and I certify the following:

1. Company understands and agrees that the Certificate of Site Compatibility will be issued by the Commission subject to the conditions and criteria set forth in Chapter 49-22 of the North Dakota Century Code and Chapter 69-06-08 of the North Dakota Administrative Code, and that Company shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Company agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the proposed energy conversion facility including all city, township, and county zoning regulations.
3. Company understands and agrees that it shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction activity associated with the energy conversion facility that requires said license or permit.
4. Company understands and agrees that the Certificate of Site Compatibility is subject to suspension or revocation and may, in an appropriate and proper case, be suspended or revoked for failure to comply with the Commission's order, the conditions and criteria of the certificate or subsequent modification, or failure to comply with the applicable statutes, rules, regulations, standards, and permits of other state or federal agencies.
5. Company agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order and the Certificate of Site Compatibility, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.
6. Company understands and agrees that the authorizations granted by the Certificate of Site Compatibility for the energy conversion facility are subject to modification by

order of the Commission if deemed necessary to protect further the public or the environment.

Construction:

7. Company agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Company representative, its construction supervisor, and a representative of Commission Staff, to ensure that Company fully understands the conditions set forth in the Commission's order.
8. Company understands and agrees that all cultural resource mitigation plans must be approved by the North Dakota State Historic Preservation Office prior to the start of any fieldwork and construction activity in the affected area.
9. Company understands and agrees that topsoil removal will begin when the Commission's third party construction inspector is present at the Project site to observe that topsoil is properly removed and kept segregated from subsoil until replacement occurs. Company shall establish the date and time for the Commission's third-party construction inspector's topsoil removal oversight in the preconstruction conference.
10. Company agrees to inform the Commission and the Commission's third-party construction inspector of its intent to start construction on the energy conversion facility prior to the commencement of construction. Once construction has started, Company shall keep the Commission and the Commission's third-party construction inspector updated of construction activities on a monthly basis.
11. (For electric energy facility) Company is aware that North Dakota law requires that all companies that own or operate electric generation of any size for the primary purpose of resale must comply with the standards of the National Electrical Safety Code in effect at the time of construction of the generation facility, and agrees to comply with that requirement.
12. Company agrees to construct and operate the energy conversion facility in accordance with all applicable safety requirements.
13. Company understands and agrees that it shall bury all underground lines to a depth of at least 48 inches to the top of the lines.
14. Company understands and agrees that topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas, roadways, and locations of associated facilities must be carefully stripped and segregated from the subsoil. Any area on which excavated subsoil will be placed must first be stripped of topsoil. The stripped topsoil must not be stockpiled in natural drainages, and must be protected from water erosion. Care must be taken to protect topsoil from

unnecessary compaction by heavy machinery. Unless otherwise approved by the Commission, topsoil must be removed before topsoil freezes in the late fall/ early winter to the point that frost inhibits proper soil segregation. After backfilling with subsoil is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography. Topsoil must be replaced over areas from which it was stripped only after the subsoil is replaced.

15. Company understands and agrees that all buried facility crossings of graded roads shall be bored unless the responsible governing agency specifically permits Company to open cut the road.
16. Company understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Company unless otherwise negotiated with landowners.
17. Company understands and agrees that if any cultural resource, paleontological site, archeological site, historical site, or grave site is discovered during construction, it must be marked, preserved and protected from further disturbances until a professional examination can be made by the State Historical Society, and a report of such examination is filed with the Commission.
18. Company understands and agrees that construction must be suspended when weather conditions are such that construction activities will cause irreparable damage to roads or land, unless adequate protection measures are taken by Company.
19. Company understands and agrees that the Commission has authority to stop Project construction activities in the event of a probable violation of the siting laws, siting rules, or applicable Commission Orders if, in the opinion of the Commission, construction activities are likely to result in irreparable or significant harm.

Restoration and Maintenance:

20. Company agrees that it shall, as soon as practicable upon the completion of the construction of the energy conversion facility, restore the area affected by the activities to as near as is practicable to the condition as it existed prior to the beginning of construction.
21. Company understands and agrees that all pre-existing township and county roads and lanes used during construction must be repaired or restored to a condition that is equal to or better than the condition prior to the construction of the energy conversion facility and that will accommodate their previous use, and that areas used as temporary roads or working areas during construction must be restored to their original condition.

22. Company understands and agrees that reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.
23. Company will fulfil its obligation for reclamation and maintenance of the approved site continuing throughout the life of the energy conversion facility.
24. Company will repair all fences and gates removed or damaged during all phases of construction and operation of the proposed energy conversion facility.
25. Company will repair or replace all drainage tile broken or damaged as a result of construction and operation of the proposed energy conversion facility.
26. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
27. Company understands and agrees that it shall work with landowners and residents to mitigate any increase in television and residential radio interference that results from the construction of the energy conversion facility.
28. Company understands and agrees that it shall remove all waste that is a product of construction and operation, restoration, and maintenance of the site, and properly dispose of it on a regular basis.
29. Company understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the energy conversion facility.

Communication with Landowners and PSC:

30. Company agrees to provide the Commission with engineering design drawings showing surveyed structure and collection substation locations prior to construction.
31. Company understands and agrees that it shall advise the Commission as soon as reasonably possible of any extraordinary events which take place at the site of the energy conversion facility, including injuries to any person.
32. Company agrees to report to the Commission, as soon as reasonably possible, the presence in or near the approved site of any critical habitat of threatened or endangered species that Company becomes aware of and which were not previously reported to the Commission.

33. Company agrees to provide the Commission with both an electronic and a paper copy of the site approved by the Commission and the facility design specifications for the construction of the energy conversion facility showing the location of the energy conversion facility as built, and will provide this information within 3 months of the completion of the construction. Company also agrees to provide an electronic version of the site approved by the Commission and the facility design specifications for the construction of the energy conversion facility showing the location of the energy conversion facility as built that can be imported into ESRI GIS mapping software within 3 months of the completion of the construction. This electronic map data must be referenced to the North Dakota coordinate system of 1983, North and/or South zones US Survey feet (NAD 83) UTM Zone 13N or 14N feet (NAD 83), or geographic coordinate system (WGS 84) feet. The vertical data must be in the appropriate vertical datum for the coordinate system used. All submissions must specify the datum in which the data was developed.
34. Company shall notify the Commission, as soon as reasonably possible, if any damage, as defined by North Dakota Century Code Chapter 49-23, occurs to underground facilities during construction conducted under the certificate or permit issued in this proceeding. In the event of any damage to underground facilities, Company shall suspend construction in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century Code Chapter 49-23 has been determined.
35. Company agrees that it shall provide, if requested, educational material for landowners within the site boundaries about the proposed energy conversion facility and any restriction or danger concerning the proposed energy conversion facility.
36. Company understands and agrees that it shall implement a procedure for how complaints concerning the proposed energy conversion facility will be handled by Company

Modification of Energy Conversion Facility or Energy Conversion Site Plan:

37. Before conducting any construction activities for any modification within the designated site, the Company will file the name and contact information for a key contact person for the purposes of notice and communication during the site modification application and will use the following procedures:
 - A. Before conducting any construction activities for any modification within the designated site, and such construction activities will not affect any known exclusion or avoidance areas within the designated site, the Company will file certification and supporting documentation:
 1. Affirming that construction activities will not affect any known exclusion or avoidance areas within the designated site;
 2. Including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying the designated site and site modification(s); and

3. Affirming that Company will comply with the Commission's order, law and rules designating the site.
- B. Before conducting any construction activities for any modification within the designated site, and such construction activities will not affect any known exclusion but may affect an avoidance area within the designated site, the Company will file:
1. A specific description of the avoidance area expected to be impacted, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying:
 - a. the designated site and the site modification;
 - b. all exclusion and avoidance areas within the portion of the designated site containing the site modification.
 2. Certification and supporting documentation affirming that construction activities will not affect any known exclusion area.
 3. All field studies performed on the portion of the designated site containing the site modification;
 4. Specific information about any mitigation measures Company will take within the modification area;
 5. Certification that each owner of real property on which the modification is to be located and any applicable governmental entity with an interest in the same modification area do not oppose the modification;
 6. Certification that unless the Commission previously authorized the impact to the same avoidance area, that the utility has good cause and a specific reason to impact the avoidance area and a reasonable alternative does not exist;
 7. Certification that Company will comply with the Commission's order, law and rules designating the site.
38. Company acknowledges and agrees that written authorization from the Commission for impacting the avoidance area is necessary prior to commencement of construction activity.

Dated this 1.00 day of December, 2025.00.

Northern Divide Energy Storage, LLC

By Anthony Pedron  DocuSigned by:
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Its Vice President

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Northern Divide Energy Storage, LLC
Northern Divide Energy Storage – Burke County
Siting Application**

Case No. PU-24-371

Tree and Shrub Mitigation Specifications

Inventory

Prior to cutting or clearing trees or shrubs for construction:

- All trees one-inch or greater in diameter at breast height must be inventoried to record the location, number, and species.
- All shrubs and all coniferous trees of any diameter must be inventoried to record the location, number, and species.

Clearing

The maximum width of tree and shrub removal is 50 feet, unless otherwise approved by the Commission.

Replacement

1. Landowners must be given the option to have trees and shrubs that are removed from their property replaced on their property. The landowner may waive this option in writing. If the landowner waives this option, the company shall plant replacement trees and shrubs in an alternate location in the same region, if practical.
2. Trees and shrubs must be replaced on a minimum two-to-one basis. The company shall develop a Tree and Shrub Mitigation Plan (Plan) in consultation with landowners who are seeking replacement trees and shrubs and in accordance with USDA-NRCS-North Dakota Field Office Technical Guide: Windbreak and Woodland Tree Care and Management. The guidelines outlined in the Technical Guide shall be followed until filing of the Plan summary outlined in number 5 below.
3. The purpose of the company's Tree and Shrub Mitigation Plan is to create sustainable plantings, appropriate for the local soil and growing conditions that will provide long-term benefit to landowners, farmers and ranchers, the community, wildlife and the environment.
4. The Plan, including the proposed number, variety, type, location, and approximate date for plantings, shall be filed with and approved by the Commission.
5. Two years after completion of the plan, the company must file a summary documenting how the plan achieved the purpose outlined in number 3 above. The summary must also report the number of surviving replacement trees and shrubs.
6. The Commission will consider, on a limited basis as conditions warrant, mitigation plans that provide long-term wildlife habitat and conservation benefits but do not involve the replanting of trees and shrubs.

Anthony Pedroni, Vice President

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December 1, 2025
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