

September 21, 2026

Via Electronic Mail & Hand Delivery

Mr. Brian Johnson
North Dakota Public Service Commission
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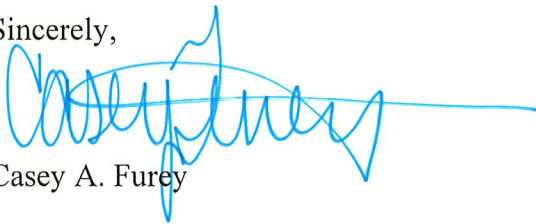
**In re: Basin Electric Power Cooperative
PrairieWinds ND 1 Project – Ward County
Case No. PU-26-164
OAH File No. 20260248**

Dear Mr. Johnson:

Enclosed for filing in the above-referenced matter, please find eight copies of the Proposed Findings of Fact, Conclusions of Law and Order.

Please feel free to contact me if you have any questions. Thank you.

Sincerely,



Casey A. Furey

CAF/lh
Enc.

cc: ALJ Hope Hogan (via email)
Christopher Martens (via email)
Christopher Hanson (via email)
Maggie Olson (via email)
Erik Edison (via email)

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Proposed Findings of Fact, Conclusions of Law & Order

Basin Electric Power Cooperative
Casey Furey, Crowley Fleck, PLLP

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Basin Electric Power Cooperative
Prairie Winds ND 1 Project – Ward County
Siting Application**

Case No. PU-26-164

[PROPOSED] FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

_____, 2026

Appearances

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

Casey A. Furey and Erik J. Edison, Crowley Fleck PLLP, 100 West Broadway Avenue, Suite 250, Bismarck, North Dakota 58501, on behalf of Applicant Basin Electric Power Cooperative.

Christopher Martens, Special Assistant Attorney General, 600 E. Boulevard Ave., Dept. 408, Bismarck, North Dakota 58505-0480, North Dakota Public Service Commission.

Hope L. Hogan, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street, Suite 303, Bismarck, North Dakota 58503, as Procedural Hearing Officer.

Preliminary Statement

On August 12, 2009, the North Dakota Public Service Commission (Commission) issued its Findings of Fact, Conclusion of Law and Order in Case No. PU-08-75, granting Certificate of Site Compatibility No. 14 (the “Certificate”) for Basin Electric Power Cooperative (Basin Electric) to construct a wind facility comprised of 77 1.5 megawatt (MW) turbines with a capacity of up to 115.5 MW (the “2009 Order”) known as PrairieWinds ND 1 Project (the “Existing Project”).

On May 1, 2026, Basin filed an application with the Commission to amend the 2009 Order and Certificate to remove the 1.5 MW per turbine and the 115.5 MW facility restrictions. On May 1, 2026, Basin Electric also filed a Certification pursuant to N.D.C.C. 49-22-03(4)(a) (the “Certification”) to upgrade the existing turbines to 1.6 MW turbines (the “Upgrade Project”). Activities for the Upgrade Project will not affect the layout or expand the site boundary of the existing facility. The project is located in Ward County approximately 24 miles due south of Minot, North Dakota.

On July 7, 2026, the Commission issued a Notice of Filing and Notice of Public Hearing (Notice) for the Application to Amend and Certification and scheduled a public hearing for August 20, 2026 at 9:00 a.m. Central Time, at the Sleep Inn & Suites Conference Center and Water Park, 2400 10th Street SW, Minot, ND 58701.

The Notice identified the following issues to be considered with respect to the Certification and Application to Amend:

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 construction, operation, and maintenance of the proposed facility at the proposed 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 August 20, 2026, a public hearing on the Application to Amend and Certification was held as scheduled. Exhibits 1 through 6 were entered into the record at the hearing.

On September 21, 2026, Basin Electric filed Late-Filed Exhibit Nos. 7 and 8. The September 21 filing also included a status update regarding proposed activities for the Upgrade Project.

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 is a North Dakota cooperative association authorized to do business in the State of North Dakota, as evidenced by the corporate papers filed with the Commission .
2. Basin Electric currently owns and operates the Existing Project and will continue to own and operate the project after Upgrade Project activities are complete.
3. Basin Electric initially proposed to improve all 77 turbines at the Existing Project by retrofitting the turbines and power systems with upgrades based on new technology. The upgrades will increase the nameplate capacity of the General Electric (GE) turbines from 1.5 MW each to 1.6 MW each. The upgrades to each turbine include replacing the existing 35-meter (115 feet) blades, with new 45-meter (148 feet) blades, replacing the hub, main shaft, main bearing assembly, gearbox, and generator refurbishment. The

Upgrade Project will increase the maximum turbine height by approximately 33 feet (for a total height of 421.8 feet) and increase the maximum output of each turbine by 0.1 MW. The nameplate capacity of the Existing Project will increase, but the maximum operational output will remain the same, pursuant to Basin Electric's existing interconnection agreement. The existing steel towers and foundations from the Existing Project will be reused and there will be no new turbine locations. Project construction will occur wholly within the existing site designated by the Commission.

4. On September 21, 2026, Basin Electric filed an update with the Commission regarding the Upgrade Project. As part of Basin Electric's coordination with the Federal Aviation Administration's (FAA) determination of no hazard (DNH) process, it has been communicated to Basin Electric that 26 turbines are ineligible for height increases. These turbines include Turbine Nos. C36, C37, C38, C39, C40, C41, C42, C43, D46, D47, D48, D49, D50, D51, D52, D53, D54, D55, D56, D57, D58, D59, E73, E75, E76, and E77. Basin Electric has agreed it will not install longer blades on these specific turbines.
5. Basin Electric requests that the Commission omit any designation of a specific megawatt threshold for the site designated for the Existing Project and amend and reissue Certificate of Site Compatibility No. 14 to remove the designated capacity threshold for the site.
6. Basin Electric anticipates performing activities for the Upgrade Project and placing the Upgrade Project in-service for commercial operation by the end of 2027.
7. The estimated cost to construct the Upgrade Project is approximately \$200 million.
8. Basin Electric conducted a natural resource inventory report for federally listed wildlife species and a habitat evaluation. No threatened or endangered species or designated critical habitat will be impacted by the Upgrade Project.
9. Basin Electric conducted a wetlands and other waters inventory. Seven wetlands will have temporary minor impacts associated with construction activities totaling 0.14 acres. The temporary impacts are depicted on Exhibit 1 to Hearing Exhibit 3. The temporary impacts occur within ditches alongside existing roads and are all associated with temporary turning radii that will be added to existing roads/intersections. The alternative would be to build new roads that would significantly increase impacts to agricultural lands and other previously undisturbed areas. Basin Electric assessed potential alternatives and determined there are no reasonable alternatives to avoid the temporary wetlands impacts identified.
10. Basin Electric performed an architectural Class II survey on all areas within a two-mile buffer of all turbines. A Class III pedestrian inventory was conducted in areas around roads and turbines. These reports were submitted to the State Historical Society of North Dakota. All cultural resources that are eligible or unevaluated for significance will be avoided during construction with appropriate fencing and buffers. Four sites will need to be avoided. Basin Electric is working with the North Dakota State Historic Preservation

Office to determine buffer zones and appropriate avoidance and mitigation measures regarding these sites. Basin Electric will provide the Commission with a copy of the State Historical Society of North Dakota's correspondence when the coordination is complete.

11. When the 2009 Order was issued, there were no Commission rules or regulations governing sound applicable to wind energy conversion facilities. As such, the 2009 Order predates the Commission's current sound standard codified under N.D. Admin. Code § 69-06-08-01(4) providing sound levels shall not exceed 45 dBA within 100 feet of an inhabited residence or community building. Basin Electric conducted a sound assessment to assess sound levels associated with the Upgrade Project. This analysis assumed all 77 turbines would be upgraded. Based on information provided in Late-Filed Exhibit No. 7, there are 14 participating receptors and 10 non-participating receptors that may experience sound levels over 45 dBA. Basin Electric's existing wind agreements with participating landowners allow for the sound levels reflected in the sound assessment. Basin Electric has obtained waivers from all 10 non-participating landowners with modeled potential sound exceeding 45 dBA.

12. When the 2009 Order was issued, the Commission did not specifically address shadow flicker. The Commission currently assesses wind energy conversion facilities under the standard of no more than 30 hours per year of shadow flicker at an occupied receptor. Basin Electric conducted a shadow flicker analysis for the Upgrade Project. This analysis assumed all 77 turbines would be upgraded. Based on the shadow flicker analysis, one non-participating receptor was modeled as potentially experiencing shadow flicker exceeding the 30 hour per year standard. Basin Electric has obtained a waiver from this landowner.

13. The 2009 Order predates the Commission's current wind facility setback rules under N.D. Admin. Code § 69-06-08-01(2).

14. Turbine number D50 does not meet the current setback rule of 1.1 times the height of the turbine from an interstate and state road right-of-way under N.D. Admin. Code § 69-06-08-01(2)(a)(1), as it relates to US Hwy 83. As originally constructed, this turbine did not meet this setback. The North Dakota Department of Transportation (NDDOT) has indicated the Upgrade Project will have no adverse impacts on NDDOT highways. Basin Electric does not propose installing longer blades on D50, consistent with the DNH process.

15. Turbine numbers A09, A16, B24, and E74 do not meet current setback rule of 1.1 times the height of the turbine plus seventy-five (75) feet from the centerline of any county or maintained township roadway under N.D. Admin. Code § 69-06-08-01(2)(a)(2). As originally constructed, these turbines did not meet this setback. Basin Electric has obtained a conditional use permit from Ward County for the upgrade activities.

16. Turbine number A09 does not meet the current setback rule of 1.1 times the height of the turbine from 115 kV or higher transmission lines under N.D. Admin. Code § 69-06-08-01(2)(a)(4), as it relates to a Western Area Power Administration (WAPA) 115-kV line.

As originally constructed, this turbine did not meet this setback. Basin Electric has obtained an agreement whereby WAPA does not object to the proposed upgrade activities as it relates to their existing infrastructure.

17. Turbine numbers B19, B31, and D52 do not meet the current setback rule of 1.1 times the height of the turbine from the property line of a nonparticipating landowner under N.D. Admin. Code § 69-06-08-01(2)(a)(5). As originally constructed, the turbines did not meet this setback.

- a. Turbine B19 is located within the setback area of property owned by the North Dakota Department of Trust Lands (NDDTL). Per the September 21, 2026 update, Basin Electric will obtain an easement from the NDDTL whereby the NDDTL does not object to the proposed upgrade activities for Turbine B19.
- b. Basin Electric sought a waiver of this setback from the nonparticipating landowner for activities associated with the Upgrade Project as it relates to Turbine B31. Basin Electric did not obtain this waiver and does not propose installing longer blades on Turbine B31.
- c. Basin Electric does not propose installing longer blades on D52, consistent with the DNH process.

18. With the exception of minor wetland impacts, construction activities for the Upgrade Project will have no additional impacts to Commission avoidance or exclusion areas existing when the 2009 Order was issued.

19. As constructed, certain turbines identified above did not meet the Commission's current setbacks when originally constructed. Basin Electric has taken measures to secure waivers or consents to address the Commission's current setbacks that were adopted after the Existing Project's construction.

20. Basin Electric will continue to comply with all applicable conditions and protections in the siting laws and rules and the 2009 Order previously issued for the Existing Project.

21. Basin Electric will obtain DNHs from the FAA for all 50 turbines proposed for Upgrade Project activities prior to operation of the facility with Upgrade Project activities.

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

Conclusions of Law

1. The Commission has jurisdiction over Basin Electric and the subject matter of the Certification and Application for Amendment under N.D.C.C. ch. 49-22.
2. Basin Electric is a utility as defined in North Dakota Century Code § 49-22-03(16).
3. The Upgrade Project proposed by Basin Electric is for improvements to an existing electric energy conversion facility as defined in N.D.C.C. § 49-22-03(6)(a).
4. The Certification, supportive filings, and testimony submitted by Basin Electric for the Upgrade Project meet the requirements under N.D.C.C. ch. 49-22-03(4)(a).
5. The Commission concludes the Upgrade Project has negligible impacts on wetlands. For the reasons set forth in the record, there are no reasonable alternatives to the negligible impacts identified.
6. The location, construction, and operation of the Upgrade Project will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
7. The Upgrade 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.
8. The location, construction, and operation of the Upgrade Project is compatible with environmental preservation and the efficient use of resources.

Having considered this matter and the foregoing, the Commission finds the August 12, 2009 Findings of Fact, Conclusions of Law and Order in Case No. PU-08-75 should be amended to remove the capacity threshold. Therefore, the Commission now makes the following:

Order

The Commission orders:

1. The Commission's August 12, 2009 Findings of Fact, Conclusions of Law and Order in Case No. PU-08-75, Order paragraph 3, is amended to read as follows:
 3. Within the permitted area, Basin Electric is authorized to site and construct wind turbines in proposed and alternate locations along with electrical collection and communication lines, access roads, an operations and maintenance building, a collector substation and other associated facilities as identified in the Application.

2. First Amended Certificate of Site Compatibility No. 14 is issued to Basin Electric Power Cooperative removing the designated turbine generation capacity.
3. A variance of the exclusion area of one and one-tenth times the height of the turbine plus seventy-five feet from the centerline of any county or maintained township roadway is granted for turbine numbers A09, A16, B24, and E74.
4. A variance of the exclusion area of one and one-tenth times the height of the turbine from the property line of a nonparticipating landowner is granted for turbine number B19.
5. Basin Electric will obtain determinations of no hazard from the FAA for all 50 turbines proposed for Upgrade Project activities prior to operation of the facility with Upgrade Project activities.
6. Basin Electric will provide the Commission with a copy of the State Historical Society of North Dakota's correspondence prior to commencing activities pertaining to the four cultural sites discussed above.
7. All applicable provisions and requirements in the Commission's August 12, 2009 Findings of Fact, Conclusions of Law and Order in Case No. PU-08-75 continue to apply except where amended by this Order.

PUBLIC SERVICE COMMISSION

**Sheri Haugen-Hoffart
Commissioner**

**Randy Christmann
Chair**

**Jill Kringstad
Commissioner**