BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION BY BASIN ELECTRIC POWER COOPERATIVE, INC. FOR AN ENERGY CONVERSION FACILITY SITING PERMIT FOR A NATURAL GAS PIPELINE TO SUPPORT THE DEER CREEK STATION PROJECT	)))))))	**STIPULATION** **HP09-002**

It is hereby stipulated and agreed by and between the Applicant, Basin Electric Power Cooperative (Basin Electric or Applicant), and Staff of the South Dakota Public Utilities Commission (Staff), that the following Findings of Fact and Conclusions of Law, and an appropriate Order consistent with said Findings of Fact and Conclusions of Law may be adopted by the South Dakota Public Utilities Commission (the Commission) in the above-captioned matter. On September 15, 2009, the Commission granted Iberdrola Renewables' Petition to Intervene. On November 3, 2009, the Commission granted party Status to Brookings County.

In support of its Application, the Applicant hereby offers this Stipulation, the Natural Gas Pipeline to Support the Deer Creek Station Application filed July 21, 2009, (Application), the amendments filed January 19, 2010, testimony and exhibits from the Public Input Hearing held on September 30, 2009, and all responses submitted by the Applicant to the Staff's data requests. Staff and Intervenors offer no testimony or exhibits conditioned upon the Commission accepting the following Stipulation.

FINDINGS OF FACT

1. INTRODUCTION

Applicant, a consumer-owned electric cooperative corporation headquartered in Bismarck, North Dakota, has applied for a permit to construct a natural gas pipeline (referred to hereinafter as the Pipeline or Project), the components of which will be located in Brookings and

Deuel Counties, South Dakota. The Pipeline is necessary for the operation of the Deer Creek Station. The Project will be comprised of the following principal component: a natural gas pipeline approximately 13.2 miles in length. The Pipeline does not constitute or include any activities relating to or located upon abandoned railroad rights-of-way.

2. PURPOSE OF FACILITY

Construction of the Pipeline is required to deliver the necessary fuel for the Deer Creek Station Project that will help Basin Electric meet the need for additional generation capacity by ensuring the successful operation of the generation facility.

3. DESCRIPTION OF PIPELINE

The Project consists of a 10 inch nominal diameter natural gas pipeline approximately 13.2 miles in length, operating at a maximum allowable operating pressure of 1,440 pounds per square inch gauge (psig).

4. ESTIMATED COST OF PIPELINE

The estimated total cost of the Pipeline is $12 million.

5. DEMAND FOR THE FACILITIES

The purpose of the Pipeline is to meet the Deer Creek Station's fuel requirement.

6. SITE DESCRIPTION

The Pipeline will be located in Brookings and Deuel counties, which are located in eastern South Dakota near the Minnesota border.

The Pipeline is situated approximately 12 miles northeast of the city of Brookings and 60 miles northeast of Sioux Falls. The Pipeline will originate 11.5 miles north of the energy conversion facility in Deuel County at Valve Site 42 on the existing Northern Border Pipeline (NBPL). The Pipeline is approximately 13.2 miles in length. The route generally parallels road right-of-ways (ROWs), but in several locations it traverses across private property to avoid road curves, reduce landowner and environmental impacts, and reduce the overall length of the

alignment. A diagram showing the general layout of the Pipeline is attached hereto for reference as Exhibit A.

7. ALTERNATIVE SITES

The location of the Pipeline was determined following the siting selection for the Deer Creek Station Project. Basin Electric completed preliminary mapping and preliminary biological, cultural, and investigative engineering field surveys to develop a proposed route that would minimize impacts to landowners and environmentally sensitive areas. During the route selection phase, alternate routes which were minor variations of the proposed route were analyzed and the proposed route was selected based on criteria such as paralleling existing road corridors, minimizing impacts to landowners and environmentally sensitive areas, length of route, and constructability.

8. ENVIRONMENTAL FACTORS AND PHYSICAL ENVIRONMENT

Applicant has completed numerous environmental studies for the Pipeline which are located in the Natural Gas Pipeline to support Deer Creek Station Project PUC Siting Application. The affected environment is described in detail in Sections 3.6 of the Application. Estimates of the changes and impacts to the existing environment from activities associated with construction and maintenance of the Pipeline is discussed in detail in Table 3.6.3 of the Application.

The location of the Pipeline would minimize changes and impacts to the existing environment by siting in areas with compatible land use and minimize the need to cross environmentally sensitive or significant features. The Application demonstrates that the Pipeline will have no significant environmental impact on all factors evaluated. The Pipeline impacts are predominately short-term and are associated with the construction phase of the Pipeline. Marginal visual, air quality, and noise impacts will occur during the operational phase of the Pipeline. It is anticipated that the Pipeline will not create any significant direct, cumulative or synergistic hazards to the health and welfare of human, plant or animal communities. No other

major industrial facilities under regulation will have an adverse effect upon the environment as a result of being located in the Pipeline's siting area.

8.1 Regional Land Forms and Topography. The Pipeline route is generally located on level to nearly level terrain. The grading and earthmoving required will not be significant. No direct, indirect or cumulative impacts to regional landforms are anticipated. The total area potentially affected by construction of the Pipeline would be approximately 120 acres. It is anticipated that there will be no direct, indirect or cumulative impacts to topography relating to construction and operation of the Pipeline. Landforms and topographic conditions would not be affected as a result of the Pipeline since surface disturbance areas will be reclaimed to approximate pre-disturbance conditions.

8.2 Geologic Features. The Pipeline will be located in the Coteau des Prairies, a plateau approximately 200 miles in length and 100 miles in width. Construction, operation and maintenance of the Pipeline is highly unlikely to cause or to encounter any significant problems or issues relating to geologic features in the Pipeline area.

8.3 Economic Deposits. No substantial economic mineral deposits are identified in the Pipeline area. There are no oil or gas wells in the Pipeline area. The Pipeline does not occupy or cross any active quarries or mines.

8.4 Soil Type. Soils at the Pipeline site are described as Mollisols. The soils in the area have a fridigic soil temperature regime, an aquic or udic soil moisture regime, and mixed mineralogy. They generally are very deep, well drained to very poorly drained, and loamy. These silty clay loam and silt loam soils have moderate organic matter and their available water capacity is moderately high. These soils are easily eroded by wind and water-related forces.

8.5 Potential for Erosion and Sedimentation. Impacts to soils from the Pipeline will be insignificant. Areas that are cleared or disturbed by construction of the Pipeline could be susceptible to erosion. Significant increases in the potential for erosion are anticipated by virtue of construction, operation or maintenance of the Pipeline. Areas that are disturbed by

construction are expected to recover naturally with vegetative re-establishment or reseeding if and as necessary under the Erosion and Sediment Control Plan (**ESCP**).

8.6 Seismic Risks, Subsidence Potential and Slope Instability. Seismic hazards in the study area are rated as very low. No potentially hazardous geologic areas, such as slumps or landslides, would be affected by construction of the Pipeline. As a result, no direct, indirect or cumulative impacts to geologic resources are anticipated to occur as a result of activities relating to the Pipeline. The Pipeline will be designed and constructed in accordance with all applicable laws and regulations. The Pipeline is located mostly on relatively level terrain in South Dakota. In the few areas where the Pipeline route crosses moderately steep slopes, additional grading may be required. In steep terrain, temporary sediment barriers, temporary slope breaks, and reseeding with mulch will be used for mitigation as needed.

8.7 Geological Constraints. There do not appear to be any geological characteristics that present unusual constraints to the design, construction or operation of the Pipeline.

8.8 Surface Water Drainage. Impacts to surface water attributable to the Pipeline are anticipated to be insignificant. Impacts to the quality of water in small, ephemeral or unmapped water are likewise anticipated to be insignificant. After construction is completed, it is anticipated that there will be no direct, indirect or cumulative impacts to surface water quality relating to the Pipeline. No impacts to the flood handling capability of the 100-year flood plain in the Pipeline area are anticipated because the Pipeline is located subsurface. No direct, indirect or cumulative impacts to groundwater quality are anticipated relative to the construction or operation of the Pipeline with the use of specific protective measures in Section 3.6.4.1.1 of the Application.

8.9 Effect on Current Planned Water Uses. Construction and operation of the Pipeline will have no impacts on planned water uses by communities, agriculture, recreation, fish or wildlife.

8.10 Groundwater. Because the Pipeline will be buried at a depth of 60 inches with a minimum cover of 48 inches from the top of the pipe, it is unlikely that the construction or operation of the Pipeline will alter the yield from any aquifers that are used for drinking water purposes.

8.11 Uses and Storage. The only significant water use that the Pipeline will require is hydrostatic test water during the final phases of construction.

8.12 Effect on Terrestrial Ecosystems. Detailed information resulting from biological field surveys conducted to identify and quantify the terrestrial fauna and flora potentially affected by the Pipeline are contained in Sections 3.6.5 of the Permit Application. It is anticipated that construction and operation of the Pipeline will have no significant adverse impact on the terrestrial biotic environment.

8.13 Effect on Terrestrial Fauna. The Pipeline construction is not anticipated to have any significant adverse impact upon wildlife in the Pipeline area. The following federally listed species were identified that could potentially occur within the Pipeline area based on preliminary data collected from the Threatened and Endangered Species List for Brookings County (USFWS 2008a) and South Dakota's Wildlife Diversity Program (SDGFPb): the whooping crane *(Grus americana*); American burying beetle (*Nicrophorus americanus)*; and Dakota skipper (*Hesperia dacotae, a* candidate species). USFWS provided guidance regarding survey requirements for the Pipeline. Habitat surveys for the candidate species Dakota skipper occurred in June 2009. Suitable habitat was identified in two specific areas for the Dakota skipper within the Pipeline corridor. Field surveys were conducted at the two native prairie locations along the natural gas pipeline construction ROW to identify if Dakota skippers were present. Surveys were conducted on June 23 and July 3, 2009, during the Dakota skipper's typical adult emergence period. The survey indicated no Dakota skippers present. If any federally listed or candidate species is found within the construction areas, USFWS will be notified and consulted on the appropriate avoidance or mitigation measures to minimize impacts

to special status species. A Biological Assessment has been prepared for the Pipeline and thoroughly addresses impacts and mitigation measures for federally listed species. Through implementation of these and standard design measures, construction of the Pipeline is not likely to have long term, adverse impacts to wildlife species.

8.14 Effect on Terrestrial Flora. Impacts to vegetation in the Pipeline area are anticipated to be insignificant since most vegetation in the area already has been altered from its original state. The Western prairie fringed orchid (palanthera praeclara) is a federally listed species identified that could potentially occur within the Pipeline corridor area based on preliminary data collected from the Threatened and Endangered Species List for Brookings County (USFWS 2008a) and South Dakota's Wildlife Diversity Program (SDGFPb). Habitat surveys for the Western prairie fringed orchid occurred in June 2009. The survey indicated no Western prairie fringed orchid present within the Pipeline corridor. The majority of the acreage that will be disturbed in connection with the Pipeline is devoted to agricultural uses. Short-term impacts (that affect vegetation for one year or less) could include disturbance, removal and soil compaction caused by: (a) performing geotechnical investigations; (b) preparing equipment yards and construction trailer sites; and (c) clearing, grubbing, grading and constructing the Pipeline. These short-term impacts will be mitigated by reclamation soon after construction is completed. Construction associated with the Pipeline may have minor indirect effects on vegetation in the Pipeline area by increasing the potential for establishment of noxious weeds. Disturbed soil creates a hospitable environment for invasion of weeds and Pipeline-related traffic may provide a transport mechanism for seeds of noxious weeds to the area. Removal of vegetation may increase erosion and sedimentation. Increased runoff on bare and compacted soils could create gullies and change the overall landscape. Trees are uncommon in the grasslands of eastern South Dakota and there are trees that will be removed during the Pipeline construction. Cumulative impacts to vegetation are anticipated to be insignificant and include the effects from existing farming and ranching. This Pipeline should have an insignificant impact

on vegetation, with the implementation of the resource protection measures in Section 3.6.5.2 of the Application as most Pipeline areas have been altered from their natural state.

8.15 Effect on Aquatic Ecosystems. Construction of the Pipeline is anticipated to have short term direct impacts to wetlands. Construction impacts are not expected to cause significant impacts on wetlands. The jurisdictional status of wetlands in the Pipeline area will be determined by United State Army Corps of Engineers (USACE) and wetland mitigation will be done in compliance with direction from USACE. Basin Electric will obtain and adhere to permit(s) required by USACE.

To minimize impacts to riparian species, Basin Electric will construct around riparian and wetland communities to the greatest extent feasible. Construction may result in short-term effects on surface waters and/or groundwater from erosion of exposed sediments during construction or accidental hazardous spills from construction equipment. Construction-related impacts to water quality will be minimized or avoided with the implementation of mitigation measures and as stipulated under Section 404 of the Clean Water Act (CWA). To reduce the potential for a hazardous materials release during the construction phase, work will be planned and performed in accordance with Occupational Safety and Health Administration (OSHA) standards and protocols addressing the use of potentially hazardous materials and applicable federal and state environmental regulations. If a release occurs, cleanup, management, and disposal of contaminated soils will be conducted according to EPA and state standards, including following contingency planning as established in the Spill Prevention, Control and Countermeasures (SPCC) Plan for the Pipeline. Silt fencing and other mitigation measures will be implemented to mitigate sedimentation and erosion from construction activities in proximity to wetlands.

8.16 Aquatic Species. Construction could result in the direct loss or degradation (from sedimentation) of some ephemeral aquatic habitats used by breeding amphibians in surface waters within the Pipeline area. If contamination of surface water occurred, it could lead

to acute and chronic impacts to waterfowl, waterbirds, fish, amphibians, reptiles, and aquatic invertebrates. The risk of contamination impacts will be minimized through implementation of mitigation measures including an SPCC Plan, Stormwater Pollution Prevention Plan (SWPPP), and the Erosion and Sediment Control Plan (ESCP).

Operational impacts will occur throughout the planned life of the Pipeline. The majority of the direct impacts to wetlands and riparian communities within the Pipeline site will result from the construction process. Buffers created during construction will be maintained after the Pipeline is developed to continue to minimize the effects of erosion, sedimentation, and soil compaction that may result from ongoing vehicle access within the site boundaries.

8.17 Water Quality. Construction of the Pipeline will comply with all applicable federal, state and local permits required for alteration of wetlands, streams or rivers relating to the Pipeline. The following are specific measures that would be taken to protect water quality (a) Best management practices would be implemented to minimize erosion and sedimentation, runoff and surface instability during construction; (b) Current drainage patterns in areas affected by construction would be maintained to the extent possible; (c) Staging areas for Pipeline-related construction equipment will be located in areas that are not environmentally sensitive to control erosion; (d) Staging and lay down yards for Pipeline-related construction will be established at least 50 feet from waterways or wetlands, if permitted by topography; (e) Construction equipment will not be serviced within 25 feet of waterways or wetlands; (f) Equipment will not be fueled within 100 feet of the waterways or wetlands; (g) Any spills of fuels or other hazardous materials during construction or system maintenance will be promptly contained and cleaned up; and (h) Any herbicides used in ROW maintenance will be approved by the U.S. Environmental Protection Agency and applied by licensed professionals. Application of herbicides would be limited to the extent necessary for regular maintenance of the Pipeline.

8.18 Air Quality. Construction of the Pipeline will comply with all applicable federal, state and local permits required. Any impact to air quality associated with the Pipeline will be short term and transient. Fugitive dust from off-road travel can be expected. Other potential air impacts are expected from contractor-vehicle exhaust and construction equipment.

9. LAND USE

The Pipeline will occupy private lands and public road crossings, the use of which is subject to regulation and oversight by Brookings County and Deuel County, South Dakota. The Pipeline will not alter any transportation corridors. The Pipeline site does not include any land that is formally classified or administered by federal or South Dakota state governmental entities. The Pipeline is compatible with existing land use designations in Brookings and Deuel Counties and will not require rezoning. In both Brookings and Deuel County, the Pipeline route is zoned Agricultural and the agricultural zoning intends to maintain and promote farming and related activities within an environment which is generally free of other land use activities. Thus, the Pipeline will be a compatible land use.

9.1 Homes and Persons Displaced. There will be no homes or persons displaced as a result of the construction, operation or maintenance of the Pipeline.

9.2 Land Use Compatibility. The Pipeline facilities are compatible with the present land uses of the surrounding area. Construction would temporarily alter the area. There will be no long term impact to "prime farmland" by the construction or operation of the Pipeline.

9.3 Effect on Land Use. The Pipeline will have minimal impact on land use. The Pipeline will occupy private land that is regulated with respect to land use by Brookings County and Deuel County zoning, land use plans and ordinances. The short-term impacts could include disruption of vegetation and farming caused by preparing equipment yards and construction trailer sites and clearing, grubbing and grading for installation of the Pipeline.

The long-term impacts could include disruption of vegetation and farming caused by loss of crops, hay or livestock forage as the result of construction of the Pipeline and any future

operation and maintenance thereof. Based upon the small amount of acreage involved, the cumulative impact of the Pipeline upon land use is anticipated to be insignificant.

9.4 Local Land Use Controls. The Pipeline will be located predominantly on private land the use of which is subject to Brookings and Deuel County zoning, land use plans and ordinances. The Pipeline will comply with all applicable and reasonable local land use, zoning and building rules, regulations and ordinances. Basin Electric has obtained approval of a Conditional Use Permit application with Brookings County and a Special Exception Permit from Deuel County for the construction, maintenance and operation of the Pipeline.

10. TIME SCHEDULE

The construction of the Pipeline is anticipated to start in July 2010 and continue for approximately three months.

11. COMMUNITY IMPACT

No significant adverse socioeconomic impacts to the local communities and governmental facilities or services are anticipated as a result of the construction, maintenance and operation of the Pipeline. It is expected that the Pipeline will provide socioeconomic benefit by creating construction employment opportunities and increased demand for locally supplied construction equipment.

11.1 Forecast of Taxation Impacts. No significant adverse impacts to taxes are anticipated as a result of the construction, maintenance and operation of the Pipeline. Taxes will be of greater economic significance to state and local revenues. Based on current tax rates and prior to the application of the discretionary formula, the Pipeline is estimated to generate approximately $109,000 in property tax in the first taxable year after operation.

11.2 Forecast of Agricultural Impacts. Approximately 56 acres of agricultural lands are located within the Pipeline ROW. Agricultural lands will be temporarily impacted during construction. Long term impacts on agricultural production are not expected since the Pipeline will be buried deep enough to allow for agricultural practices to resume after construction.

Disturbance will be short term and mitigated by the measures outlined in Section 3.7.6 of the Application.

11.3 Forecast of Noise and EMF Impacts. Potential noise impacts resulting from construction of the natural gas Pipeline include increased noise levels during construction near sensitive noise receivers, such as residences. Noise associated with operation of the natural gas Pipeline is anticipated to be negligible. The construction and operation of the Pipeline will have no EMF impacts.

11.4 Forecast of Transportation Impacts. No significant direct, indirect or cumulative impacts are expected to the transportation systems of cities, counties or the state. No airports are located in the immediate vicinity of the Pipeline.

11.5 Forecast of Cultural Resource Impacts. Applicant has conducted a records search and an on-site cultural resources inventory of the Pipeline area. The results of the cultural resources study are discussed in Section 3.7.11.5 of the Application. The Pipeline is expected to have no significant direct, indirect or cumulative impact on the cultural resources.

12. EMPLOYMENT ESTIMATES

The construction workforce of the Pipeline will be temporary. The Pipeline will be built between July and September 2010 and the construction crew will be approximately 70 workers. The large percentage of the temporary workforce will consist of non-local personnel. A small portion is expected to be from local communities where possible. No permanent workforce is anticipated for the operation of the Pipeline. Because no permanent employees are associated with the Pipeline, no long-term impacts on public services, including transportation, sewer and water, solid waste or energy services are anticipated.

13. FUTURE ADDITIONS AND MODIFICATIONS

The Pipeline has been designed for operation of future units for the Deer Creek Station.

14. STATEMENT DESCRIBING GAS PIPELINE STANDARDS

The construction contractor for the Pipeline will be Montana-Dakota Utilities Company. The Pipeline will be constructed in compliance with construction standards under the Contractor's Montana-Dakota Utilities Company, Gas Distribution Standards and in conformance with the DOT regulations, 49 CFR Parts 191 and 192, Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (Federal Safety Standards) as amended.

The Pipeline will be designed, constructed, tested, maintained and operated in accordance with all applicable requirements including the U.S. Department of Transportation, Pipeline of Hazardous Materials and Safety Administration (PHMSA) regulations set forth in 49 CFR Part 191, Transportation of Natural and Other Gas by Pipeline: AIMSA Annual Reports, Incident Reports, and Safety Related Condition Reports; 49 CFR Part 192, Transportation of Natural and Other Gas by Pipeline; Minimum Federal Safety Standards; and 49 CFR Part 199, Drug and Alcohol Testing. Under 49 CFR, Basin Electric will utilize the following existing plans and procedures: Operations, Maintenance and Emergency Response Plan (Parts 192.603 and 192.615); Operator Qualification Program (Part 192 Subpart N); Integrity Management Plan (Part 192 subpart O); Public Awareness Plan (Part 192 Subpart L) and, if applicable, Anti-Drug and Anti-Alcohol Plans, including testing provisions (Part 199). In addition, for Pipeline construction and installation, Basin Electric's contractor and/or its construction contractor will use qualified welding procedures (49 CFR 192.225) and qualified welders (49 CFR 192.225 and 192.227). Pipeline safety matters for the Pipeline are under the jurisdiction of the South Dakota Office of Pipeline Safety. Unless otherwise indicated, all design, construction, operation and maintenance records will be kept in accordance with the appropriate federal and state regulations and standards.

15. NATURE OF PROPOSED PROJECT

The Project will consist of a new Pipeline that will connect to the existing NBPL interstate pipeline and will traverse approximately 13.2 miles. A 60-foot permanent ROW with a temporary construction ROW will be acquired to facilitate the installation and operation of the Pipeline. Additional ROW will be acquired where necessary for work space needed for directional drilling shafts. The Pipeline will be constructed of welded steel and is designed to accommodate the passage of instrumented internal inspection devices. No new compressor stations or storage facilities will be required.

15.1 Estimated On-line Life and Operating Capacity. The life of the Pipeline is estimated at 75 years.

15.2 Design Capacity. The inlet flow capacity will be 95 million standard cubic feet per day (mmscfd). The Pipeline will have a 10.75 inch outside diameter and a design pressure of 1,440 psig. Delivery to the gas turbines will be approximately 475 psig. The entire Pipeline length is within a Class I location. A Class I location, as defined in 49 CFR Part 192.5, refers to an onshore location for a Pipeline.

15.3 Changes in Flow. The Pipeline would be connected to the NBPL transmission facilities. Flow characteristics of the NBPL system are dynamic and cannot be generally determined with respect to a pipeline interconnection intended to operate on a demand basis. The Pipeline is a normal use associated with the NBPL system and is not anticipated to change the flow.

15.4 Technical Specification of Pipeline. The American Petroleum Institute (API) provides a published specification for high-test line pipe. This specification covers various grades of seamless and welded steel line pipe. Process of manufacture, chemical and physical requirements, methods of test, dimensions and other parameters are specified. Grade designates pipe manufactured according to API specifications. The pipe type, according to API is "5L PSL2" with a specified minimum yield strength designated in pounds per square inch.

Electric resistance welding (ERW) has one longitudinal seam formed during the manufacturing process The technical specification for the pipe that will be used in this Project are set forth below:

Technical Specification	Measurement
Weight per foot	28.06 lbs for 0.250 inch wall thickness and 31.23 lbs for 0.279 inch wall thickness
Outside Diameter	10.75 inches
Nominal Wall Thickness	0.250 inches
	0.279 inches (bores)
Pipe Type	API 5L PSL2, ERW
Pipe Design Factor	0.72
Longitudinal or Seam Joint Factor	1.0
Temperature De-rating Factor	1.0
Specified Minimum Yield Strength	52,000 pounds per square inch
Tensile Strength	66,000 pounds per square inch
Coating Type	FBE (Fusion Bonded Epoxy)
Manufacturer of Pipeline	Domestic
%SMYS at MAOP for Main Line	60%
%SMYS at MAOP for Bores	54% under roads

15.5 Operating Pressure. The maximum actual operating pressure (psig) of the Pipeline will be approximately 1,200 psig at the inlet side of the line and is dependent on NBPL and the volume throughput of the Pipeline. The maximum allowable operable operating pressure design point will be 1,440 psig.

Pipe testing will utilize either nitrogen or water and will have a minimum test pressure of 1,800 psig. The Pipeline will be tested upon completion in accordance with applicable provisions of 49 CFR part 192, latest or replacement issue.

15.6 Associated Facilities. Two gas regulator stations will be associated with the Pipeline. The first stage regulator station will be immediately adjacent to the NBPL interconnect site. The second stage regulator station will be located at the gas yard within the energy conversion facility. No compressor stations or storage facilities will be constructed for this project. All components other than the pipe material, including valves, fittings, flanges, regulators, and other components, will be designed and purchased for an American National Standards Institute (ANSI) 600 minimum rating. A cathodic protection system will be designed

for the Pipeline. Plug and ball valves and welded and flanged valve connections will be utilized and will be of API class 6D, ANSI 600. Plug valves will be sourced from either Flowserve-Nordstrom or Cameron-Texsteam manufacturers. Ball valves will be sourced from either Grove, Cameron, or Balon manufacturers. Valves will not be present along the length of the Pipeline and will be spaced at 14.0-mile intervals: one at the origination point and one at the Pipeline terminus. Launcher and receiver stations will be located at the ends of the Pipeline.

16. DECOMMISSIONING

At decommissioning, all surface equipment will be removed from the Pipeline site and disposed of appropriately. Concrete will be buried on the site as approved, and the ground surface will be returned to its pre-Pipeline contour quality and usage. The facility will not produce any hazardous material that will be stored or disposed of on site, requiring no hazardous removal at decommissioning. The underground gas Pipeline will be capped below grade and abandoned in place. The site will be decommissioned based on the applicable regulatory requirements or public policy that is in effect at that time.

17. ADDITIONAL INFORMATION

The Application as amended contains all information necessary to meet the burden of proof specified in SDCL 49-41B-22.

CONCLUSIONS OF LAW

1.

The Commission has jurisdiction over the subject matter and parties to this proceeding pursuant to SDCL Chapter 49-41B and ARSD 20:10:22. Subject to the findings made on the four elements of proof under SDCL 49-41B-22, the Commission has authority to grant, deny, or grant upon reasonable terms, conditions or modifications, a permit for the construction, operation, and maintenance of the Pipeline.

2.

Administrative rules have the force of law and are presumed valid. *Feltrop v.Department of Social Services*, 559 N.W.2d 883, 884 (S.D. 1997). An administrative agency is bound by its own rules. *Mulder v. Department of Social Services*, 675 N.W.2d 212, 216 (S.D. 2004).

3.

The standard of proof is by the preponderance of evidence. The Applicant has met its burden of proof pursuant to SDCL 49-41 B-22 and is entitled to a permit as provided in SDCL 49-41B-24.

4.

The Commission concludes that it needs no other information to assess the impact of the facility or to determine if Applicant has met its burden of proof.

5.

The Commission concludes that the Application and all required filings have been filed with the Commission in conformity with South Dakota law and that all procedural requirements under South Dakota law, including public hearing requirements, have been met or exceeded.

6.

The Commission concludes that it possesses the authority under SDCL 49-41B-24 to impose conditions on the construction, operation and maintenance of the Project, that the Conditions set forth below are reasonable and will help ensure that the Project will meet the standards established for approval of a construction permit for the Project set forth in SDCL 49-41B-22 and that the Conditions are hereby adopted.

7.

The Applicant's Permit Application, as amended and supplemented by responses to Staff's data requests, complies with the applicable requirement of SDCL Chapter 49-41B and ARSD 20:10:22.

8.

The Pipeline constitutes a transmission facility as defined in SDCL 49-41B-2.1(2).

9.

Because a federal EIS is required for the Pipeline and because the federal EIS complies with the requirements of SDCL Chapter 34A-9, the Commission appropriately exercised its discretion under SDCL 49-41B-21 in determining not to prepare or require the preparation of a second EIS.

10.

The Pipeline, if constructed and operated in accordance with the terms and conditions of this permit, will comply with all applicable laws and rules, including all requirements of SDCL Chapter 49-41B and ARSD 20:10:22.

11.

The Pipeline, if constructed and operated in accordance with the terms and conditions of this permit, will not pose an unacceptable threat of serious injury to the environment nor to the social and economic conditions of inhabitants or expected inhabitants in the siting area.

12.

The Pipeline, if constructed and operated in accordance with the terms and conditions of this permit, will not substantially impair the health, safety or welfare of the inhabitants of the siting area.

13.

The Pipeline, if constructed and operated in accordance with the terms and conditions of this permit, will not unduly interfere with the orderly development of the region with due consideration having been given the views of governing bodies of affected local units of government.

14.

The Commission has the authority to revoke or suspend any permit granted under the South Dakota Energy Facility Permit Act for failure to comply with the terms and conditions of the permit pursuant to SDCL 49-41B-33 and must, pursuant to SDCL 49-41B-29, approve any transfer of the permit that is granted.

15.

The Applicant has met its burden of proof pursuant to SDCL 49-41B-22 and is entitled to a permit as provided in SDCL 49-41B-24, subject to the following:

STIPULATE TO THE FOLLOWING TERMS AND CONDITIONS:

1.

The Applicant shall obtain all governmental permits which reasonably may be required by any township, county, state or federal agency or any other governmental unit for construction activity prior to engaging in the particular activity covered by that permit. Copies of any permits obtained by the Applicant shall be sent to the Commission.

2.

The Applicant shall comply with all other terms and conditions as set forth in the Findings of Fact and Conclusions of Law.

3.

The terms and conditions of the permit shall be made a uniform condition of construction, subject only to an affirmative written request for an exemption addressed to the Commission. A request for an exemption shall clearly state which particular condition should not be applied to the property in question and the reason for the requested exemption. The Commission shall evaluate such requests on a case-by-case basis.

4.

If construction of any portion of the Pipeline commences more than four years after the date the permit is granted, Applicant must certify to the Commission before the construction commences that such facilities will meet the permit conditions.

5.

Basin Electric shall comply with and implement the Commitments as set forth in the Final Environmental Impact Statement.

6.

The permit granted by this Order shall not be transferable without the approval of the Commission pursuant to SDCL 49-41B-29.

7.

Basin Electric shall construct, operate and maintain the Pipeline in a manner consistent with: 1) descriptions in the Application, 2) Application supplements, 3) responses to data requests; and 4) the conditions of the Permit to Construct, Operate and Maintain the Pipeline.

8.

The Applicant shall ensure that its employees, contractors and agents involved in ROW negotiations and acquisitions, ROW clearing, construction and ROW maintenance understand fully and comply with the terms and conditions of this permit.

9.

Basin Electric shall inform the Commission of its intent to start construction on the Project 60 days prior to the commencement of construction and supply data as required under ARSD 20:10:37:18 Notice Requirements for Transmission Lines.

10.

Prior to the start of construction, Basin Electric shall file maps with the Commission depicting the final pre-construction plan and profiles of the Pipeline. Thirty days upon the

conclusion of construction, Basin Electric shall file detailed maps with the Commission depicting the final as-built Project.

11.

Basin Electric agrees that the Commission's complaint process as set forth in ARSD 20:10:01 shall be available to landowners, other persons sustaining or threatened with damage as the result of Basin Electric's failure to abide by the conditions of this permit or otherwise having standing to seek enforcement of the conditions of the permit.

12.

Not later than one month prior to commencement of construction, Basin Electric shall commence contacts with state, county and municipal emergency response, law enforcement and highway, road and other infrastructure management agencies serving the Project area in order to educate such agencies concerning the planned construction schedule and the measures that such agencies should begin taking to prepare for construction impacts and the commencement of Project operations.

13.

Basin Electric shall conduct a pre-construction conference prior to commencement of any construction, which must include a Basin Electric representative, its construction supervisor and a representative of the Commission Staff to ensure that Basin Electric fully understands the conditions set forth in the Order.

14.

The Applicant shall provide each landowner on whose property the Pipeline is to be constructed with the following information:

(a) A copy of the Commission Order.

(b) Detailed safety information describing:

(1) reasonable safety precautions for existing activities on or near Pipeline;

(2) known activities or uses that are presently prohibited near the Pipeline; and

(3) other potential dangers or limitations near the Pipeline.

(c) Construction/maintenance damage compensation policies and procedures;

(d) The Commission's address, web site and phone number;

(e) Contact person within the company including name and phone number;

(f) An explanation regarding trenching and topsoil and subsoil/rock removal, segregation and restoration methods.

15.

The Applicant shall seek local input to properly and effectively coordinate an emergency response plan consistent with local resources and response abilities for the operation of the Pipeline. Upon completion the emergency response plan shall be filed with the Commission for public availability.

16.

The Applicant shall notify the Commission and all affected landowners, utilities and local governmental units as soon as practicable if material deviations are proposed to the route. The Applicant shall advise the Commission and all affected landowners, utilities and local governmental units prior to implementing such changes and afford the Commission the opportunity to review and approve such modifications to the Project.

17.

Except as otherwise provided in the conditions of this Stipulation, the Applicant shall comply with all mitigation measures set forth in the Application. If modifications to the mitigation measures are made by Basin Electric, such modifications shall be filed with the Commission and shall be complied with by Basin Electric.

18.

Numerous conditions in this Stipulation relate to construction and its effects upon affected landowners and their property. Basin Electric may encounter physical conditions during construction which make compliance with certain conditions impracticable. If, after providing a copy of the permit, including the conditions, to the landowner and advising Commission Staff, Basin Electric and landowner agree in writing to modifications of one or more requirements specified in this Stipulation, Basin Electric may follow the alternative procedures and specifications agreed to between it and the landowner.

19.

If radio or television interference is caused by the presence or operation of the Pipeline and/or its associated facilities, the Applicant shall take all appropriate action to restore or provide reception equivalent to reception levels in the immediate areas just prior to construction of the Pipeline. This mitigation requirement shall apply to homes or other structures in place at the time of construction but shall not apply to any dwellings or other structures built after construction of the Pipeline approved in this permit has been completed.

20.

The Applicant shall take appropriate action to mitigate wind-blown particles created throughout the construction process, including but not limited to implementation of dust control measures such as road watering, covering of open haul trucks when transporting material subject to being wind-blown, the use of paved roads wherever possible to access the construction site, and the removal of any soils or mud deposits by construction equipment when necessary.

21.

Basin Electric shall endeavor not to locate fuel storage facilities within 200 feet of private wells and 400 feet of municipal wells and shall minimize and exercise vigilance in refueling activities in areas within 200 feet of private wells and 400 feet of municipal wells.

22.

Basin Electric shall implement the following sediment control practices:

(a) Basin Electric shall use floating sediment curtains to maintain sediments within the construction ROW in lieu of straw bales when the depth of non-flowing water exceeds the height of straw bales or silt fence installation;

(b) Basin Electric shall install sediment barriers in the vicinity of delineated wetlands and water bodies at locations as needed to prevent silt or soil from entering the delineated wetland or water body regardless of the presence of flowing or standing water at the time of construction; and

(c) Basin Electric shall consult with South Dakota Game, Fish and Parks (SDGFP) to avoid construction near water bodies during fish spawning periods, if any, and in which in-stream construction activities should be avoided to limit impacts on specific fisheries with commercial or recreational importance.

23.

Basin Electric shall comply with the following conditions regarding construction across or near wetlands, water bodies and riparian areas:

(a) Unless a wetland is actively cultivated or rotated cropland or unless site specific conditions require utilization of a wider 60 foot width and the landowner has agreed to such greater width, the width of the construction ROW shall be limited to 60 feet in non-cultivated wetlands;

(b) Unless a wetland is actively cultivated or rotated cropland, extra work areas shall be located at least 25 feet away from wetland boundaries except where site-specific conditions render a 25-foot setback infeasible. Extra work areas near water bodies shall be located at least 25 feet from the water's edge, except where the adjacent upland consists of actively cultivated or rotated cropland or other disturbed land or where site-specific conditions render a 25-foot setback

infeasible. Clearing of vegetation between extra work space areas and the water's edge shall be limited to the construction ROW;

(c) Water body crossing spoil, including upland spoil from crossings of streams greater than 30 feet in width, shall be stored in the construction ROW at least 10 feet from the water's edge or in additional extra work areas and only on a temporary basis;

(d) In-stream spoil from streams greater than 30 feet in width may be temporarily stored in-stream. This storage shall only be conducted in conformity with any required federal permit(s) and any applicable federal or state statutes, rules and standards;

(e) Wetland and water body boundaries and buffers shall be marked and maintained until ground disturbing activities are complete. Basin Electric shall maintain 25-foot buffers where practicable, which for stream crossings shall be maintained except during the period of trenching, pipe laying and backfilling the crossing point;

(f) BMP's shall be implemented to prevent heavily silt-laden trench water from reaching any wetland or water body directly or indirectly;

(g) Erosion control fabric should be used on water body banks immediately following final stream bank restoration unless riprap or other bank stabilization methods are utilized in accordance with federal or state permits;

(h) Low ground-weight construction equipment will be used or normal equipment will be operated on timber riprap, prefabricated equipment mats, or geotextile fabric overlain with gravel. Geotextile fabric used for this purpose will be strong enough to allow removal of all gravel and fabric from wetland; and

(i) Vegetation restoration and maintenance adjacent to water bodies shall be conducted in such manner to allow a riparian strip at least 25 feet wide as measured from the water body's mean high water mark to permanently re-vegetate with native plant species across the entire construction ROW.

24.

Basin Electric shall comply with the following conditions regarding road protection:

(a) Basin Electric shall coordinate road closures with state and local governments and emergency responders and shall acquire all necessary permits authorizing crossing of county and township roads;

(b) Basin Electric shall implement a regular program of road maintenance and repair through the active construction period to keep paved and gravel roads in an acceptable condition for residents and the general public; and

(c) After construction, Basin Electric shall repair and restore, or compensate governmental entities for their repair and restoration of, any deterioration caused by construction traffic such that the roads are returned to at least their preconstruction condition.

25.

Basin Electric shall use appropriate preventative measures to prevent damage to paved roads and to remove excess soil or mud from such roadways. Before commencing construction, the Applicant shall furnish an indemnity bond in the amount of $1.3 million to comply with the requirements of SDCL 49-41B-38. Such bond shall be issued in favor of, and for the benefit of, all such townships, counties, and other governmental entities whose property is crossed by the Pipeline. The bond shall remain in effect until released by the Commission, which release shall not be unreasonably denied following completion of the construction and repair period. Basin Electric shall give notice of the existence and amount of these bonds to all counties, townships and other governmental entitles whose property is crossed by the Pipeline.

26.

All pre-existing public roads and lanes used during construction must be restored to at least their pre-construction condition, and privately owned areas used as temporary roads during construction must be restored to their original condition, except as otherwise requested or agreed to by the landowner or any governmental authority having jurisdiction over such roadway.

27.

Basin Electric shall, prior to any construction, file with the Commission a list identifying private and new access roads that will be used during construction and a description of methods used by Basin Electric to reclaim those access roads.

28.

Basin Electric shall promptly report to the Commission the presence of any critical habitat of threatened or endangered species in the siting area that Basin Electric becomes aware of and that was not previously reported to the Commission.

29.

If during construction, Basin Electric or its agents discover what may be an archaeological resource, cultural resource, historical resource or gravesite, Basin Electric or its contractors or agents shall immediately cease work at that portion of the site and notify the affected landowners and the State Historical Preservation Office (SHPO). If the SHPO determines that a protectable resource is present, Basin Electric shall develop a plan that is acceptable to the SHPO to salvage, avoid or protect the archaeological resource.

30.

The Applicant shall take appropriate precautions to protect livestock and crops during construction.

31.

The Applicant shall take all necessary steps to mitigate construction related damages to rangeland and pastureland. Such actions shall include but not be limited to re-vegetation and weed control.

32.

Basin Electric shall separate and segregate topsoil from subsoil in agricultural areas, including grasslands and shelter belts.

33.

Basin Electric shall repair any damage to property that results from construction activities.

34.

Basin Electric shall restore all areas disturbed by construction of the Pipeline to their preconstruction condition, including their original preconstruction topsoil, vegetation, elevation, and contour, or as close thereto as is feasible, except as otherwise agreed to by the landowner.

35.

Except where unfeasible, final grading and topsoil replacement and installation of permanent erosion control structures shall be completed in non-residential areas within 30 days after backfilling the trench. In the event that seasonal or other weather conditions, extenuating circumstances, or unforeseen developments beyond Basin Electric's control prevent compliance with this time frame, temporary erosion controls shall be maintained until conditions allow completion of cleanup and reclamation.

36.

In the event the winter season delays successful completion of de-compaction, topsoil replacement or seeding of disturbed lands until the following spring, Basin Electric shall prepare and execute a winterization plan. The Commission and affected landowners shall be notified.

37.

Basin Electric's obligation with respect to reclamation and maintenance of the ROW shall continue throughout the life of the Pipeline for disturbances caused by Basin Electric or its agent's actions.

38.

Basin Electric shall work closely with landowners or land management agencies to determine a plan to control noxious weeds. Landowner permission shall be obtained before the application of herbicides.

39.

The size, density and distribution of rock within the Pipeline ROW shall be restored as nearly as reasonably possible to the conditions existing prior to disturbance. Basin Electric shall treat rock that cannot be backfilled within or below the level of the natural rock profile as construction debris and remove it for disposal off-site except when the landowner agrees to the placement of the rock on his property. In such case, the rock shall be placed in accordance with the landowner's directions.

40.

Basin Electric shall employ adequate measures to decompact soil. Topsoil shall be de-compacted if requested by the landowner.

41.

Basin Electric shall install trench and slope breakers where necessary.

42.

If reasonably requested by landowners, Basin Electric shall apply mulch following seeding to stabilize the soil surface and to reduce wind and water erosion.

43.

Upon reasonable request, and in a manner consistent with local zoning regulations, and federal and state laws, Basin Electric shall coordinate with landowners regarding the protection

of cattle in the Pipeline ROW area. Basin Electric shall compensate a landowner for any loss of livestock attributable to a failure by Basin Electric or it agents to implement and to follow prudent practices.

44.

Basin Electric shall develop frac-out plans specific to areas in South Dakota where horizontal directional drilling will occur. The plan shall be followed in the event of a frac-out. If a frac-out event occurs, Basin Electric shall promptly file a report of the incident with the Commission. Basin Electric shall also, after execution of the plan, provide a follow-up report to the Commission regarding the results of the occurrence and any remaining questions or concerns on the part of Basin Electric.

45.

Reclamation and clean-up along the ROW must be continuous and coordinated with ongoing construction.

46.

Basin Electric shall repair or replace all property removed or damaged during all phases of construction, including but not limited to, all fences, gates and utility, water supply, irrigation or drainage systems. Basin Electric shall compensate the owners for damages or losses that cannot be fully remedied by repair or replacement, such as lost productivity and crop and livestock losses.

47.

Any damage that occurs as a result of soil disturbance from the Pipeline activities on a persons' property shall be paid for by Basin Electric.

48.

Basin Electric agrees not to pursue a legal claim against a landowner for a Pipeline leak that occurs as a result of his/her normal farming practices over the top or near the Pipeline; provided, however, that this covenant shall not apply in situations involving negligence or willful

misconduct on the part of the landowner, his employees, agents, contractors or other representatives.

49.

Basin Electric shall, in a manner consistent with its easement agreement with landowners, identify and hold the landowner harmless for loss, damage, claim or actions resulting from Basin Electric's use of the easement, including any damage resulting from any release, except to the extent such loss, damage claim or action results from the negligence or willful misconduct of the landowner, his employees, agents, contractors or other representatives.

50.

If trees are to be removed that have commercial or other value to affected landowners, Basin Electric shall compensate the landowner for the fair market value of the trees to be cleared and/or allow the landowner the right to retain ownership of the felled trees.

51.

Basin Electric shall implement the following protections in areas where the Project passes within 500 feet of a residence:

(a) To the extent feasible, Basin Electric shall coordinate construction work schedules with affected residential landowners prior to the start of construction in the area of the residences;

(b) Basin Electric shall maintain access to all residences at all times, except for periods when it is infeasible to do so or except as otherwise agreed between Basin Electric and the occupant. Such periods shall be restricted to the minimum duration possible and shall be coordinated with affected residential landowners and occupants, to the extent possible;

(c) Basin Electric shall install temporary safety fencing, when reasonably requested by the landowner or occupant, to control access and minimize hazards associated with an open trench and heavy equipment in a residential area;

(d) Basin Electric shall notify affected residents in advance of any scheduled disruption of utilities and limit the duration of such disruption;

(e) Basin Electric shall repair any damage to property that results from construction activities; and

(f) Basin Electric shall separate topsoil from subsoil and restore all areas disturbed by construction to at least their preconstruction condition.

52.

In accordance with 49 CFR 192, Basin Electric shall evaluate whether any high consequence areas (HCA) exist along the Pipeline. Prior to Basin Electric commencing operation, if HCAs exist, Basin Electric will develop an Integrity Management Plan.

53.

To facilitate periodic Pipeline leak surveys during operation of the facilities in wetland areas, a corridor centered on the Pipeline and up to 15 feet wide shall be maintained in an herbaceous state. Trees within 15 feet of the Pipeline greater than 15 feet in height may be selectively cut and removed from the permanent ROW.

54.

To facilitate periodic Pipeline leak surveys in riparian areas, a corridor centered on the Pipeline and up to 10 feet wide shall be maintained in an herbaceous state.

55.

The Commission shall be notified prior to any decommissioning action.

56.

At decommissioning, all equipment will be removed from the Pipeline ROW and disposed of appropriately. Concrete will be buried on the site as approved, and the ground surface will be returned to its pre-Pipeline contour, quality and usage. The Pipeline will not produce any hazardous material that will be stored or disposed of on site, thus it is anticipated that removal of produced hazardous materials will not be required at decommissioning. The Pipeline will be capped below grade and abandoned in place.

Dated this 10th day of May, 2010.

BASIN ELECTRIC POWER COOPERATIVE

By: _____
Ronald R. Harper
CEO, Basin Electric Power Cooperative

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

By: _____
Karen E. Cremer
Staff Attorney