

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

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**IN THE MATTER OF THE  
APPLICATION BY BASIN ELECTRIC )  
POWER COOPERATIVE FOR ENERGY )  
FACILITY PERMIT FOR A 230 KV )  
TRANSMISSION FACILITY IN HAAKON )  
COUNTY, SOUTH DAKOTA )**

**SETTLEMENT STIPULATION  
EL25-030**

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It is hereby stipulated and agreed by and between Basin Electric Power Cooperative (Applicant or Basin) and Staff of the South Dakota Public Utilities Commission (Staff), (jointly the Parties), that the following Settlement Stipulation (Stipulation) may be adopted by the South Dakota Public Utilities Commission (Commission) in the above-captioned matter.

The Parties engaged in negotiations in an effort to arrive at a jointly acceptable resolution of this matter. As a result of those negotiations, the Parties have resolved all issues subject to this proceeding with this Settlement Stipulation.

**INTRODUCTION**

On August 15, 2025, Basin filed an application for an energy facility permit to construct a 0.95-mile long, single-circuit 230 kV transmission line extension located in Sections 14 and 15 of 4N, 20E, in Haakon County, South Dakota (Project). The Project is an extension between the new Philip North Switchyard, to be constructed by Western Area Power Administration, and a dead-end transmission structure that will cut into the existing transmission line connected to the Philip Tap switching station. The Project will include construction of up to seven three-phase, single circuit transmission structures constructed on steel H-frame and monopole structures and will include up to four pulling and tensioning sites. The estimated capital cost of the Project is \$2.48 million.

**PURPOSE**

This stipulation has been prepared and executed by the Parties for the sole purpose of resolving all issues in Docket EL25-030. In consideration of the mutual promises hereinafter set forth, the Parties agree as follows:

1. Upon execution of this Stipulation, the Parties shall file this Stipulation with the Commission together with a joint motion requesting that the Commission issue an order approving this Stipulation in its entirety without condition or modification.

2. This Stipulation includes all terms and conditions of the settlement and is submitted with the condition that, in the event the Commission imposes any material changes or conditions to this Stipulation which are unacceptable to any Party, this Stipulation may, at the option of any Party, be withdrawn and shall not constitute any part of the record in this proceeding or any other proceeding, nor be used for any other purpose.
3. This Stipulation shall become binding upon execution by the Parties, provided however, that if this Stipulation does not become effective in accordance with Paragraph 2 above, it shall be null, void, and privileged. This Stipulation is intended to relate only to the specific matter referred to herein; no Party waives any claim or right, which it may otherwise have, with respect to any matter not expressly provided for herein. No Party or a representative thereof shall directly or indirectly refer to this Stipulation as precedent in any other current or future proceeding before the Commission.
4. The Parties to this proceeding stipulate that all of Basin's pre-filed testimony and exhibits and responses to data requests will be made a part of the record in this proceeding. The Parties understand that if these issues had not been settled, Staff would have filed testimony, and the Parties would have moved forward with an evidentiary hearing.
5. The terms and conditions contained in this Stipulation shall inure to the benefit of and be binding upon the respective successors, affiliates, owners, stockholders, partners, parents, subsidiaries, directors, officers, agents, employees, representatives, attorneys, and assigns of the Parties. In addition, the terms and conditions of this Stipulation, including all facts leading up to the signing of this Stipulation, shall bind the Parties, including consultants, contractors and retained professionals.
6. This Stipulation constitutes the entire agreement between the Parties and shall be deemed to supersede any other understanding or agreements, whether written, oral, expressed or implied, relating to the Application. This Stipulation may not be amended, modified, or supplemented, and waivers or consents to departures from the terms and conditions of this Stipulation may not be given without the written consent thereto executed by all Parties.
7. This Stipulation shall be interpreted and construed in accordance with the laws of the State of South Dakota.

8. This Stipulation may be executed by electronic mail or facsimile and in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document.
9. The Parties agree that subject to the four elements of proof under SDCL 49-41B-22, the Commission has the authority to grant, deny, or grant upon reasonable terms, conditions, or modifications a permit for the construction, operation, and maintenance of the Project. Each Party further agrees that Applicant has met its burden of proof pursuant to SDCL 49-41B-22 and is entitled to a Permit to construct the Project as provided in SDCL 49-41B-24, subject to the following:

## **TERMS AND CONDITIONS OF THE SETTLEMENT STIPULATION**

1. The Applicant will obtain all governmental permits which reasonably may be required by any township, county, state or federal agency or any other governmental unit for construction and operation activity prior to engaging in the particular activity covered by that permit. Applicant shall file an itemized affidavit with the Commission attesting that all applicable permits were properly obtained prior to construction or prior to undertaking the permitted activity if such activity occurs after the start of construction.
2. The Applicant shall comply with all other terms and conditions as set forth in this Facility Permit (Permit) for the Project.
3. If construction, expansion, or improvement of the Project commences more than four years after the date the Permit is granted, the Applicant must certify to the Commission before the construction commences that such facilities will continue to meet the Permit conditions pursuant to SDCL 49-41B-27.
4. The Permit granted by the Order in this matter shall not be transferable without the approval of the Commission pursuant to SDCL 49-41B-29.
5. The Applicant shall construct, operate, and maintain the Project in a manner consistent with:
  - a. Descriptions in the Application,
  - b. Application supplements, if any, including testimony filed by Applicant to date,
  - c. Responses to any data requests,
  - d. The Terms and Conditions of the Permit,
  - e. Any applicable industry standards, and
  - f. Any permits issued by a federal, state, or local agency.

6. Applicant agrees that the Commission's complaint process as set forth in ARSD 20:10:01 shall be available to landowners and other persons sustaining, damage as the result of Applicant's failure to abide by the conditions of the Permit or otherwise having standing to seek enforcement of the conditions of the Permit. Participating landowners are free to use the complaint process free from retribution or consequence regardless of any private easement term to the contrary.
7. At least 14 days prior to commencing construction, the Applicant shall provide each landowner on whose property the Project is to be constructed with the following information:
  - a. A copy of the Commission Order Granting the Permit;
  - b. Detailed safety information describing:
    - i. Reasonable safety precautions for existing activities on or near the Project,
    - ii. Known activities or uses that are presently prohibited near the Project, and
    - iii. Other known potential dangers or limitations near the Project;
  - c. Construction/maintenance damage compensation plans and procedures;
  - d. The Commission's address, website and phone number; and
  - e. Contact person for Applicant, including name, e-mail address, and phone number.

A copy of the landowner notice letters shall be filed with the Commission to demonstrate compliance with this condition.

8. To ensure compliance with the terms and conditions of this Permit pursuant to SDCL 49-41B-33, the Applicant shall inform all employees, contractors, and agents of Applicant involved in this Project of the terms and conditions of this Permit prior to the start of construction.
9. Except as otherwise provided in the conditions of this Permit, Applicant shall comply with applicable mitigation measures set forth in the Application, Supplements to the Application (including testimony filed by Applicant to date), if any, and Applicant's responses to Staff data requests. Material modifications to the mitigation measures shall be subject to prior approval of the Commission.
10. Applicant shall obtain road use agreements with Haakon County and all affected townships, if required. Applicant will comply with the terms of all road use agreements. 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 windblown, and the removal of any soils or mud deposits by construction equipment when necessary.

11. Applicant shall comply with the following conditions regarding road protection:

- a. Applicant shall acquire all necessary permits authorizing the crossing of federal, state, county, and township roads.
- b. Applicant shall coordinate road closures with federal, state, and local governments and emergency responders.
- c. Applicant 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 public.
- d. After construction Applicant shall, at the discretion of the governmental entities, repair and restore deteriorated roads resulting from construction traffic, or compensate governmental entities for their repair and restoration of deteriorated roads, such that the roads are returned to their preconstruction condition.
- e. Privately owned areas used as temporary roads during construction will be restored to their preconstruction condition, except as otherwise requested or agreed to by the landowner.
- f. Should Applicant need to widen any existing roadways during construction of the Project, the Applicant shall return the roadways back to original width after completion of the Project, unless agreed upon otherwise with the federal, state, county, or township entities, or the landowner.
- g. Applicant shall use appropriate preventative measures to prevent damage to paved roads and shall also remove excess soil or mud from such roadways, as needed.
- h. Before commencing construction, the Applicant shall furnish an indemnity bond in the amount of \$200,000 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 transmission facilities. 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. Applicant shall give notice of the existence and amount of this bond to all counties, townships and other governmental entities whose property is crossed by the transmission facilities.

12. Applicant shall provide signage that identifies road closures and disturbances resulting from the Project in accordance with the most recent edition of the Manual on Uniform Traffic Control Devices as published by the Federal Highway Administration, as applicable.

13. Applicant shall promptly report to the Commission the presence of any critical habitat of threatened or endangered species in the siting area that Applicant becomes aware of and that was not previously reported to the Commission.
14. Applicant shall design the transmission line following the Avian Power Line Interaction Committee Suggested Practices for Avian Protection on Power Lines.
15. Applicant agrees to avoid direct impacts to cultural resources that are unevaluated, eligible for, or listed in the National Register of Historic Places (NRHP). When a NRHP unevaluated, eligible, or listed resource cannot be avoided, Applicant shall notify the State Historic Preservation Office (SHPO) and the Commission prior to excavation of the area of the reasons that complete avoidance cannot be achieved in order to coordinate minimization and/or treatment measures.
16. If, during construction, Applicant discovers what may be a cultural resource, human skeletal remains, or associated funerary objects, Applicant or its contractors and agents shall immediately cease work at the location and notify the landowner(s), the SHPO, and other authorities as appropriate (per SDCL 34-27-25, SDCL 34-27-26, and SDCL 34-27-28). If it is determined, in coordination with SHPO, that a significant resource is present, Applicant shall develop a plan that is reasonably acceptable to the landowner and SHPO that minimizes the impact or threat to the resource.
17. Applicant shall provide the Stormwater Pollution Prevention Plan (SWPPP) to the Commission when Applicant has a final design for the Project. The SWPPP will outline the water and soil conservation practices that will be used during construction to prevent or minimize erosion and sedimentation and be in a form consistent with the South Dakota Department of Agriculture and Natural Resource guidelines for such plans. The SWPPP shall be completed before submittal of an application for a National Pollutant Discharge Elimination System (NPDES) general permit for construction activities. All contractors will be given a copy of the SWPPP and requirements will be reviewed with them prior to the start of construction.
18. Applicant shall repair and restore areas temporarily disturbed by construction or maintenance of the Project. Except as otherwise agreed to by the landowner, restoration shall include replacement of original pre-construction topsoil or equivalent quality topsoil to its original elevation, contour, and compaction and re-establishment of original vegetation as close thereto as reasonably practical.
19. Applicant shall work closely with landowners or land management agencies, such as the NRCS, to determine a plan to control noxious weeds in areas disturbed by construction or

maintenance activities, and Applicant shall implement the plan. Landowner permission shall be obtained before the application of herbicides.

20. Applicant's obligation with respect to restoration and maintenance of the ROW shall continue throughout the life of the Project for disturbances caused by the actions of the Applicant. Where the soil is disturbed during construction or maintenance of the line, Applicant shall restore vegetation in and along the ROW.
21. Applicant shall stage construction materials in a manner that minimizes the adverse impact to landowners and land users as agreed upon between Applicant and landowner or Applicant and appropriate federal, state, and/or local government agencies. All excess construction materials and debris shall be removed upon completion of the Project, unless the landowner agrees otherwise.
22. In order to mitigate interference with agricultural operations during and after construction, Applicant shall locate all structures, to the extent feasible and prudent, to minimize adverse impacts and interferences with agricultural operations, shelterbelts, and other land uses or activities. Applicant shall take appropriate precautions to protect livestock and crops during construction. Applicant shall repair all fences and gates removed or damaged during construction or maintenance unless otherwise agreed with the landowner or designee. Applicant shall be responsible for the repair of private roads damaged when moving equipment or when obtaining access to the ROW.
23. Applicant shall, at the discretion of the landowner, repair or replace all property removed or damaged during all phases of construction, or compensate the owner for their repair or replacement of such property removed or damaged, including but not limited to, all fences and gates and utility, water supply, irrigation, or drainage systems. Applicant 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. All repair, replacement, and/or compensation described above shall be in accordance with the terms and conditions of written agreements between Applicant and affected landowners where such agreements exist.
24. Applicant shall, in the manner described in its written landowner agreements, indemnify and hold the landowner harmless for loss, damage, claim, or actions resulting from Applicant'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 or the landowner's employees, agents, contractors, or other representatives.

25. With respect to the Project, Applicant may adjust the structure locations within the 125-foot wide route (as depicted on Figure A-2 of Appendix A to the Application) so long as: (a) impacts to cultural resources are avoided or mitigated in consultation with the SHPO; (b) documented habitats for listed species are avoided; (c) wetland impacts are avoided or are in compliance with applicable U.S. Army Corps of Engineers (USACE) regulations; (d) the ROW and structures will not be located in potentially undisturbed grasslands; and (e) all other applicable regulations and requirements are met. Prior to implementing the structure adjustment, Applicant will file in the docket an affidavit demonstrating compliance with the limitations set forth above. Any adjustment that falls outside of the 125-foot route identified in the Application, Application supplements, and Applicant's Testimony, or that does not meet the above-stated limitations is considered a "material change." If a "material change" is proposed, Applicant shall file a request for approval of the "material change" prior to making the adjustment pursuant to the following approval process:

- a. Applicant will file with the Commission and serve on the official Service List a request for approval of a material change that includes:
  - i. An affidavit that 1) describes the proposed adjustment(s), 2) provides the reason for the adjustment(s), 3) provides the reason the adjustment(s) do(es) not comply with one or more flexibility limitations set forth above, and 4) attests to compliance with all other applicable requirements;
  - ii. Documentation showing the impacted landowner was informed of the material change and indication whether landowner approves of the material change or contests the material change; and
  - iii. A map showing the approved location of the 125-foot wide route and structure locations and the proposed adjusted locations (in different colors).
- b. Once a request for a material change is received, Commission Staff and the Commission shall have 10 business days to request further Commission review via written request filed in the docket and served on the Applicant.
- c. If no further review is requested, Applicant may proceed with the adjustment.
- d. If further review is requested, the Commission will issue a decision regarding Applicant's request at its next available regularly scheduled Commission meeting, subject to notice requirements, after the request for further review is made.

26. For temporary use areas, Applicant shall: (a) secure all necessary land rights; (b) conduct cultural resource field surveys and wetland delineations, if not located in an area previously surveyed; (c) avoid or mitigate cultural resource impacts in consultation with the SHPO; (d) avoid or ensure wetland impacts are in compliance with applicable USACE regulations; (e) avoid potentially undisturbed grasslands; and (f) meet all other applicable regulations.

27. 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 Permit Condition should not be applied and the reason for the requested exemption. The Commission shall evaluate such requests on a case-by-case basis which evaluation shall be completed within 60 days unless exigent circumstances require action sooner.
28. If the Project causes interference with radio, television, or any other licensed communication transmitting or receiving equipment, Applicant shall take all appropriate action to minimize any such interference and shall make a good faith effort to restore or provide reception levels equivalent to reception levels in the immediate areas just prior to construction of the Project. This mitigation requirement shall not apply to any dwellings or other structures built after completion of the Project.
29. Applicant will provide Global Positioning System coordinates of structure locations to affected landowners upon request during the life of the Project. Coordinates will be provided in writing to landowners within 30 days of a request.
30. Applicant has secured the necessary easement(s) for construction of the Project as proposed in the Application. If a material change results in the need to acquire a new easement, Applicant shall secure the necessary easement(s) for a parcel prior to beginning construction of the Project on said parcel.
31. Applicant shall notify the Commission of key Project milestones by making the following filings in the docket: a) Report the date construction will commence as soon as it is known, but no later than five business days prior to commencement; b) Report the date construction was completed within five business days of completion (i.e. Project infrastructure is installed and ready for testing); c) Report the Commercial Operation Date within five business days of commercial operation; and d) Report the date reclamation was completed within five business days of reclamation completion.
32. Not less than 15 days prior to commencement of construction work in the field, Applicant shall file the most current preconstruction design, layout, and plans. Applicant will also provide such additional Project preconstruction information as Staff requests.
33. Within 90 days of the Project's Commercial Operation Date, Applicant shall submit a report to the Commission that provides the following information:
  - a. As-built location of structures and route;

- b. The status of remedial activities for road damage, landowner property damage, crop damage, environmental damage, or any other damage resulted from construction activities; and
- c. A summary of known landowner complaints and Applicant's plan for resolving those complaints.

34. Prior to construction, Applicant will provide notices of construction to the South Dakota Department of Public Safety, the Sheriff of Haakon County, and the Office of Emergency Management of Haakon County along with a schedule and location of work to be performed within the agency's jurisdiction.

35. Within 30 days of receiving its Permit, Applicant shall provide a copy of the Commission's Final Decision and Order Granting Permit to Construct Facility, Notice of Entry and attached Permit Conditions in this docket to the affected county, townships, and municipalities in the Project Area.

36. Applicant shall, to the extent feasible, avoid construction activities between the hours of 10:00 p.m. and 7:00 a.m.

37. The Applicant has completed a cultural resource survey report and provided the survey report to SHPO. The Applicant shall complete consultation with SHPO for the Project and file SHPO's concurrence letter at least 30 days prior to construction. If SHPO determines there will be an adverse effect on historic resources, the Applicant shall, at least 30 days prior to construction, develop an agreement with SHPO to avoid, minimize or mitigate the impacts.

Table 1. Summary of Condition Reporting/Notice Requirements

Condition	Requirement	Timing
1	File affidavit attesting all permits received to the Commission	Prior to construction or prior to undertaking the permitted activity if such activity occurs after the start of construction
7	Send landowner notice letters and file a copy to the Commission	At least 14 days prior to construction
11(h)	Furnish road bond	Prior to construction
13	Report discovery of critical habitat to Commission	Promptly upon discovery
15	Notify SHPO and Commission if eligible historic/cultural resource cannot be avoided	Prior to excavation of affected area
17	File SWPPP to the Commission	Once final project design is completed and SWPPP is finished for NPDES permit
25	File affidavit for structure location changes that are within the 125-foot wide route, if needed, to the Commission	Prior to construction
25	File request for material change, if needed, to the Commission	Prior to construction
31	Key Project milestone notices to Commission:  a) Commencement of Construction b) Construction completion c) Commercial Operation Date	Requirement specific timing:  a) As soon as known, but no later than 5 business days prior  b) Within five business days after date reached

	d) Reclamation Completion Date	c) Within five business days of commercial operation  d) Within five business days after date of reclamation
32	File required preconstruction information to the Commission	15 days prior to construction
33	File post construction report to the Commission	Within 90 days after reaching commercial operations
34	Notify public safety agencies	Prior to construction
35	Provide copy of Permit and Conditions to local governments	Within 30 days of permit issuance
37	Provide notice of SHPO concurrence	At least 30 days prior to construction

Dated this 4<sup>th</sup> day of February 2026.

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