

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**FPL Energy Oliver County Wind, LLC  
230 kV Transmission Line - Oliver County  
Siting Application**

**Case No. PU-06-312**

**ORDER**

**August 23, 2006**

On July 17, 2006 FPL Energy Oliver County Wind, LLC (Oliver Wind) filed a Letter of Intent to construct approximately 542 feet of radial 230 kV electric transmission line and associated substation facilities in Oliver County, North Dakota. On July 26<sup>th</sup> the Commission acknowledged the Letter of Intent, shortened the waiting period between filing of a Letter of Intent and a siting application to one day and assessed a filing fee of \$22,500.

On July 25, 2006 Oliver Wind filed consolidated applications for a waiver of procedures and time schedules, a certificate of corridor compatibility and a route permit authorizing construction. Oliver Wind asserts in its application that the proposed electric transmission facilities will produce minimal adverse effects and requests that the Commission (1) waive provisions of law and rule that require filing of separate applications, separate hearings and certain time schedules; (2) not hold a public hearing, but instead publish a notice of opportunity for hearing; (3) find that the proposed facilities are of such length, design, location and purpose that it will produce minimal adverse effects; (4) provide in the notice of opportunity for hearing that requests for hearing be made in not more than ten days under N.D.C.C. section 49-22-13(4); and (5) designate and approve the requested facilities and issue the appropriate corridor certificate and route permit.

On July 28, 2006 the Commission found Oliver Wind's consolidated applications complete and issued a Notice of Filing and Notice of Opportunity for Hearing. The notice provided until August 22, 2006 for receiving written comments and requests for hearings. The notice stated that the Commission can determine the matter without a hearing and no requests for hearing have been received. The notice identified the following issues to be considered:

1. Will the location, construction, and operation of the proposed facilities produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?
2. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?

3. Will the proposed facility locations minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?
4. Are the proposed facilities of such length, design, location, or purpose that they will produce minimal adverse effects so that procedures and time schedules may be waived?
5. Does a demonstrable emergency exist, which requires immediate construction so that adherence to procedures and time schedules would jeopardize the utility's system?
6. Is it appropriate for the Commission to waive any procedures and time schedules as requested in the application?

Oliver Wind proposes to construct approximately 542 feet of 230 kV electric transmission line and associated substation facilities to interconnect Oliver Wind's proposed wind energy generating project to Square Butte Electric Cooperative's existing Center Substation in Oliver County, North Dakota.

The associated substation facilities include a new collection substation and interconnection modifications at the Center Substation where the electricity generated will be inverted to direct current (DC) for transmission to retail loads in Minnesota.

Oliver Wind proposes a circular transmission corridor with a radius of approximately one-half mile around its proposed transmission line route located in the SE  $\frac{1}{4}$  of Section 33, T 142N, R 83W. The corridor is located entirely within Oliver County in Sections 3 & 4 of T 141N, R 83W, and Sections 33 & 34 of T 142N, R 83W.

Construction of the electric transmission line and associated substation facilities is expected to begin in August 2006 with completion on or about November 1, 2006.

The estimated cost of the transmission line and associated substation facilities is approximately \$4.5 million.

The proposed transmission line and associated substation facilities would be constructed entirely on utility property surrounding the existing Milton R. Young electric generating station.

Oliver Wind conducted a Class I review of historic and archeological records and a Class III cultural resource pedestrian survey of the project area. The State Historical Society of North Dakota found these studies acceptable and concurred with Oliver Wind's determination of no significant impact on cultural resources.

Nelson Lake along the western edge of the proposed corridor is an area of recreational significance listed on the U.S. Fish and Wildlife National Wetlands Inventory (NWI). Nelson Lake offers boating, fishing and other recreational opportunities. Nelson Lake is located approximately 0.3 miles west of the proposed route and will be avoided.

The Pioneer Riparian community, *Potamogeton vaginatus* (sheathed pondweed) has been identified by the North Dakota Heritage Program as a sensitive plant species found within the Nelson Lake wetlands in the southwestern portion of the proposed corridor. Disturbance of this plant and associated wetland and riparian communities will be avoided.

The U.S. Fish and Wildlife Service has reviewed the project and concluded no significant impact on fish and wildlife resources. The service reports no endangered or threatened species are known to occupy the project area.

Oliver Wind estimates approximately 13.74 acres of woodlands and shelterbelts within the proposed corridor. This includes one small area of trees and shrubs previously planted to act as windscreen along the southeast corner of the proposed facility that will be impacted by construction.

The Commission finds the location, construction, and operation of the proposed transmission line will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.

The Commission finds the proposed transmission line compatible with the environmental preservation and the efficient use of resources.

The Commission finds the proposed transmission line route minimizes adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.

The Commission finds the proposed transmission line is of such length, design, location, or purpose that it will produce minimal adverse effects.

The Commission does not find that a demonstrable emergency exists.

The Commission finds it appropriate to waive procedures and time schedules as requested in the application.

### **Order**

The Commission Orders:

1. Oliver Wind's application for waiver of procedures and time schedules is granted.

2. Certificate of Site Compatibility for a Transmission Facility Corridor No. 92 is issued to Oliver Wind, designating a corridor for its proposed transmission line and associated substation facilities as shown on the attached map.
3. Route Permit for Construction of a Transmission Facility No. 102 is issued to Oliver Wind, granting authority to construct the transmission line and associated substation facilities in the location shown on the attached map.
4. Oliver Wind shall conduct a preconstruction conference prior to commencement of any construction, which must include an Oliver Wind representative, its construction supervisor and a representative of Commission staff to ensure that Oliver Wind fully understands the conditions set forth in this Order.
5. Oliver Wind shall comply with the rules and regulations of all other agencies having jurisdiction over any phase of the project, and shall provide copies of all licenses and permits to the Commission prior to construction of the transmission lines.
6. Oliver Wind shall inform the Commission of its intent to start construction prior to commencement of construction and, once construction has started, shall keep the Commission updated on construction activities on a weekly basis.
7. Oliver Wind shall construct and operate the transmission line and associated substation facilities in the manner described in its application and in accordance with the National Electric Safety Code and all applicable safety requirements.
8. Oliver Wind shall promptly report to the Commission the presence in the permit area of any critical habitat of threatened or endangered species, or of bald or golden eagles which Oliver Wind becomes aware of and which were not previously reported to the Commission.
9. If any cultural resource, paleontological, archeological, historical, or grave site is discovered during construction, it must be marked, preserved, and protected from further disturbances until a professional examination can be made by the State Historical Society, a report of such examination is filed with the Commission and clearance to proceed is given by the Commission.
10. All pre-existing roads and lanes used during construction must be restored to a condition that will accommodate their previous use and areas used as temporary roads or working areas during construction shall be restored to their original condition.
11. Construction must be suspended when weather conditions are such that construction activities will cause irreparable damage, unless adequate protection measures approved by the Commission are taken.
12. Reclamation and clean-up along the right-of-way must be continuous and coordinated with construction.

13. Reclamation, fertilization, and reseeding is to be done by Oliver Wind according to the National Resources Conservation Service and County Farm Service Agency recommendations for CRP, native prairie and other lands, unless otherwise specified by the landowners and approved by the Commission.

14. Oliver Wind's obligation for reclamation and maintenance of the right-of-way will continue throughout the life of the transmission lines.

15. Trees and other wooded vegetation must be replaced with saplings that are two or more years old at a rate of two for every one removed along the route. The landowner shall be given the option of having replacement trees/shrubs planted off the right-of-way on the landowner's property or waiving that requirement in writing and allowing replacement plantings of trees/shrubs elsewhere. Oliver Wind shall inspect tree replacements once a year for three years and send a report on or shortly before November 1 of 2007, 2008 and 2009 to the Commission documenting work completion and condition of woodlands planting. The Commission may order additional plantings if survival rates are less than 75% of the required ratio of two for one.

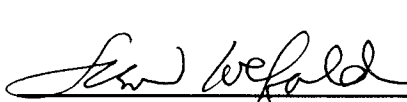
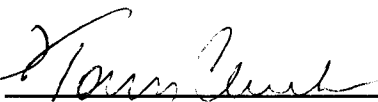
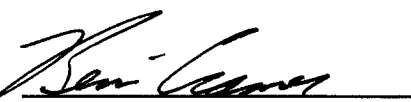
16. Oliver Wind shall work with landowners and residents to mitigate any increase in television and residential radio interference that results from the project.

17. Oliver Wind shall obtain approval from the Commission or from Commission staff prior to any changes in structure locations.

18. Oliver Wind shall provide the Commission with a copy of the design specifications for construction showing the location of the transmission line and associated substation facilities as built. Oliver Wind shall provide this information within three months of the completion of construction.

19. The authorization granted by the corridor certificate and route permit is subject to modification by order of the Commission if deemed necessary to further protect the public or the environment.

#### **PUBLIC SERVICE COMMISSION**

		
<b>Susan E. Wefald</b> Commissioner	<b>Tony Clark</b> President	<b>Kevin Cramer</b> Commissioner