

RECEIVED

November 10, 2009

NOV 10 2009

Norman L. Jones III
Direct Dial: (612) 604-6605
Direct Fax: (612) 604-6905
njones@winthrop.com

PUBLIC SERVICE COMMISSION

Mr. Darrell Nitschke
Executive Director
North Dakota Public Service Commission
600 East Boulevard Avenue, Dept. 408
Bismarck, ND 58505-0480

ELECTRONIC FILING
ORIGINAL AND COPIES VIA U.S. MAIL

RE: Just Wind, LLC / Logan County Project
Docket # PU-07-054

Dear Mr. Nitschke:

We are submitting this letter on behalf of our client, Just Wind, LLC. Just Wind, LLC would like the PSC to reconsider the locations of six turbines previously requested to be located in some proximity to residential structures in the Logan County Wind Farm. The turbines in question are # 16, 91, 95, 153, 155, and 156. We understand that at working sessions at the Capital on April 27, 2009, Just Wind was asked for some more detailed information on noise levels and ice throws, and was asked to have the residents in closest proximity to these locations sign a consent form. Just Wind has submitted the information above and the consent forms, and would now request a favorable decision from the Commission.

Just Wind has submitted a total park noise calculation. The closest resident at 884 feet has been modeled at a more conservative 750 feet (229m) and still found to be in the 44-46db sound range. This fits meets the Commission's 49db target noise level for a greater distance at 1400 feet. Just Wind followed the zoning ordinance from Logan County, which states a 750 foot setback from livable residences. At the PSC hearing in Napoleon on October 21, 2008, Commissioner Wefald commented she would like to see a rule of a 1000 foot setback. At the working session on April 27, 2009, the Commissioners told Just Wind representatives they would like to see a 1400 foot setback, because of all the problems that have arisen from projects where the PSC did not have involvement due to the fact the projects had been built under the "Mega Watt's" requirement.

We see a 1400 feet setback as a blunt instrument. That is, a generic standard with such a large built-in noise margin that it could be used as a proxy where the particular noise circumstances are unknown. However, where (i) the exact noise circumstances have been modeled and found to meet the target thresholds, (ii) the Commission has had the opportunity to inquire into and control the site specific details, and (iii) the affected residents know and consent to the details, it

Mr. Darrell Nitschke
November 10, 2009
Page 2

should be possible to apply more refined and precise standards. Accordingly, we think a specific site noise standard of 49db is appropriate to apply in this case. This targeted noise standard is met at the proposed set backs. If these noise thresholds are being met at the proposed setbacks, it will be completely unclear to us what additional non-noise benefits the Commission would be trying to pursue by applying a greater setback.

To summarize, Just Wind has run two models with different wind speeds, (8.2 m/s and 9.6 m/s) and a total park calculation for both using the Logan County zoning distance of 750 feet (229m). The noise calculations have been run by EAPC Architects Engineers out of Grand Forks, ND. The Commission should have the copies of the reports filed in May 2009, along with all the reports requested in the April 27 e-mail from you. Please see Exhibit A attached.

We look forward to hearing from you. Thank you.

Very truly yours,

WINTHROP & WEINSTINE, P.A.



Norman L. Jones III

cc: Jerry Lein (w/attachment) (via email)

4828250v1

EXHIBIT A

6 turbines located between 750ft. and 1400ft. of a livable residence.

T-95.....884 ft. at a wind speed of 8.2 m/s, at 750ft. (229m) from the WTG's (43.6db)
At a wind speed of 9.6 m/s at 750ft. (229m) from WTG's (46.1db) (occupied residence)

T-156.....903 ft. at a wind speed of 8.2 m/s at 750ft. (229m) from the WTG's (42.7db)
At a wind speed of 9.6 m/s at 750ft. (229m) from the WTG's (45.2db) (occupied residence)

T-153.....945 ft. at a wind speed of 8.2 m/s at 750ft. (229m) from the WTG's (42.4db)
At a wind speed of 9.6 m/s at 750ft. (229m) from the WTG's (44.8db) (occupied residence)

T-91.....1007 ft. at a wind speed of 8.2 m/s at 750ft. (229m) from the WTG's (41.7db)
At a wind speed of 9.6 m/s at 750ft. (229m) from the WTG's (44.3db) (occupied residence)

T-155.....1076 ft. at a wind speed of 8.2 m/s at 750ft. (229m) from the WTG's (42.0db)
At a wind speed of 9.6 m/s at 750ft. (229m) from the WTG's (44.5db) (abandoned farmstead)

T-16.....1186 ft. at a wind speed of 8.2 m/s at 750ft. (229m) from the WTG's (41.4db)
At a wind speed of 9.6 m/s at 750ft. (229m) from the WTG's (43.9db) (occupied residence)

All consent forms have been signed and a copy was presented to the commission in May 2009.