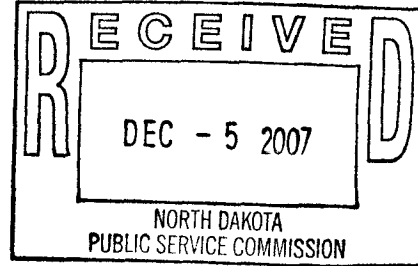




**FPL Energy**



December 5, 2007

Ilona A. Jeffcoat-Sacco  
Executive Director, Public Service Commission  
600 East Boulevard Avenue  
Bismarck, North Dakota 58505-0480

**via: Email**

RE: Wind Turbine Decommissioning: Case No. 07-642

Dear Ms. Jeffcoat-Sacco:

FPL Energy is pleased to submit comments in the above-referenced docket.

As you will see, we believe there are several areas of concern, most notably the authority of the Commission to regulate wind farms less than 100MW, that need to be addressed prior to finalization of rules governing decommissioning of wind turbines and wind farms. As a result, FPL Energy requests the Commission conduct a working session, in which interested parties like FPL Energy may participate, to consider our comments and the comments that others may submit.

You may contact me directly at 561-691-7232 or via email at [john\\_didonato@fpl.com](mailto:john_didonato@fpl.com) to discuss this submission.

Sincerely,

A handwritten signature in black ink that reads 'John DiDonato'.

John DiDonato  
Executive Director, Midwest Wind Development

enclosures

cc: Mike O'Sullivan  
Dean Gosselin  
Scott Scovill  
Brian Bjella, Fleck, Mather & Strutz

## BEFORE THE NORTH DAKOTA PUBLIC SERVICE COMMISSION

Susan Wefald  
Tony Clark  
Kevin Cramer

President  
Commissioner  
Commissioner

In the Matter of Wind Turbine  
Decommissioning

Case No. 07-642

### COMMENTS OF FPL ENERGY, LLC

On October 3, 2007, the North Dakota Public Service Commission published notice seeking comments on the above-referenced docket.

FPL Energy, LLC (FPL Energy) is the largest owner and operator of wind energy generation facilities in the United States. In North Dakota it owns and operates, through various subsidiaries and affiliates, the 40MW North Dakota I Wind Energy Center and 21MW North Dakota II Wind Energy Center near Kulm, North Dakota; the 49.5MW Wilton Wind Energy Center in Wilton, North Dakota; and the 50.6MW Oliver I Wind Energy Center near Center, North Dakota. We are also currently constructing the 118.5MW Langdon Wind Energy Center near Langdon, North Dakota and the 48MW Oliver II Wind Energy Center near Center, North Dakota. Additionally, we are developing over 1,500MW of wind generation throughout North Dakota, and we have a wind development pipeline throughout the United States of over 14,000MW. Based on our position in the wind energy industry and our continued interest in developing new wind generation in North Dakota, we respectfully submit the following comments.

#### **Proposed Rule 69-09-10-05. Decommissioning Requirements:**

(A) The third line of the first sentence should be revised to more clearly reflect the intent of the Commission that underground cables, foundations, buildings and ancillary equipment must only be removed to a depth of four feet. FPL Energy routinely buries underground cable below the frost line, which is typically four feet or deeper in North Dakota, and it is not necessary that cable buried deeper than four feet be removed if the wind farm was to be decommissioned. To reflect this, we respectfully propose the following:

“Decommissioning and site restoration includes dismantling and removal of all towers, turbine generators, transformers, and overhead cables; removal of underground cables, foundations, buildings and ancillary equipment to a depth of four feet; and removal of surface road material and restoration of the roads and turbine sites to substantially the same physical condition that existed immediately

before construction of the commercial wind energy conversion facility or wind turbine.”

(B) The proposed requirement to reclaim the original top soil quality of an individual wind turbine site is impractical. Stockpiling top soil near each wind turbine site is not in the interest of the landowner, who is typically looking to maximize his land usage around the wind turbines located on his property. This would disrupt row crop farming and potentially change the drainage of some sites. For these reasons, we respectfully request that the standard of reclamation be set as “good or prudent engineering practices.”

**Proposed Rule 69-09-10-06. Decommissioning Plan:**

The Commission proposes that a decommissioning plan be filed prior to commencement of operation of a commercial conversion facility or wind turbine, and that the Commission shall review the decommissioning plan and issue an order approving or disapproving the plan within 6 months after the decommissioning plan is filed. FPL Energy has several concerns about this proposal for which we respectfully request clarification.

First, what happens in the event the Commission issues an order disapproving the decommissioning plan? Does the Commission intend on preventing the wind energy conversion facility (or wind turbine) from generating clean, renewable energy while the decommissioning plan is reconsidered? If so, what would be the Commission’s authority for doing so and even to regulate wind farms less than 100MW?

Second, what is the Commission’s proposed standard for approval or disapproval of a decommissioning plan? As far as FPL Energy is aware, no commercial wind farm has ever been decommissioned in the United States, so there is no “best practice” or established standard for wind farm decommissioning.

**Proposed Rule 69-09-10-08. Financial Assurance:**

This proposed rule lists a corporate guarantee as one of the options available for providing financial assurance for decommissioning costs. FPL Energy is in favor of this option. However, we believe the Commission should establish the standard by which a corporate entity would qualify as a guarantor within the rules instead of leaving that to the discretion of the Commission every time a corporate guaranty is proposed. FPL Energy suggests a creditworthiness standard (e.g., BBB- by Standard & Poor’s), net worth standard, or debt to equity ratio standard be incorporated into the proposed rules to create a “safe harbor” for corporate guarantors.