

FPL Energy Burleigh County Wind, LLC
FPL Energy Oliver Wind, LLC
Langdon Wind, LLC
Baldwin Wind, LLC
Ashtabula Wind III, LLC

October 19, 2015

Mr. Jerry Lein
Public Utility Analyst
North Dakota Public Service Commission
600 East Boulevard, Dept 408
Bismarck, ND 58505-0408

UPS Overnight Mail

RE: Case Nos. PU-05-205, PU-06-312, PU-07-722, PU-09-668 and PU-10-147 Compliance Issues

Dear Mr. Lein:

Please find responses below from FPL Energy Burleigh County Wind, LLC ("Burleigh Wind"), FPL Energy Oliver Wind, LLC ("Oliver Wind"), Langdon Wind, LLC ("Langdon Wind"), Baldwin Wind, LLC ("Baldwin Wind") and Ashtabula Wind III, LLC ("Ashtabula III") to your letter dated September 18, 2015. The following list provides responses to your inquiries and references to requested documentation. These documents can be found attached to this letter.

Burleigh Wind: PU-05-205.

- **Request:** Provide an update as to whether or not at the end of 2009 the Company experienced a 75 percent survival rate and if not, the Commission requests that the Company report as to the additional efforts the Company has undertaken to meet this requirement
 - Ordering Paragraph 17 states: "Trees and other wooded vegetation must be replaced at a rate of two for every one removed along the route. Landowners shall be given the option of having replacement trees/shrubs planted off the right-of-way on the landowners property or waiving that requirement in writing and allowing replacement plantings of trees/shrubs elsewhere. FPL/Central Power shall inspect tree replacements once a year for three years and send a report on or shortly before October 1 of 2006, 2007 and 2008 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."
 - **Response:** The 2007 and 2008 inspection reports filed in PU-05-205, shows that a 75% survival rate was surpassed per all requirements in the order. Burleigh Wind has been unable to locate the 2006 inspection report, but believes that the

2008 report demonstrates that Burleigh Wind has met the 75% survival rate requirement in the order.

Oliver Wind: PU-06-312

- **Request:** Provide an update as to whether or not at the end of 2015 the Company experienced a 75 percent survival rate and if not, the Commission requests that the Company report as to the additional efforts the Company has undertaken to meet this requirement
 - Ordering Paragraph 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.”
 - **Response:** Oliver Wind filed a tree mitigation plan and the plan was approved by the Commission in April, 2011. Oliver Wind then filed tree and shrub survival in November 2011, October 2012, October 2013 and September 2014. Oliver Wind notes that the replantings performed in 2011 and 2012 were done proactively after a heavy rainstorm and not because survival rates were below 75%. In the final report in 2014 the survival rate was above the required 75%, which demonstrates that Oliver Wind has met the survival rate requirement in Ordering Paragraph 15.

Langdon Wind: PU-07-722

- **Request:** “The Commission finds no record of tree and shrub mitigation efforts for the Langdon expansion project.”
 - **Response:** The attached letter from June 2010, which states that there were no trees removed during construction. Therefore we are not required to provide any tree and shrub mitigation efforts and are in compliance of this requirement.

Baldwin Wind: PU-09-668

- **Request:** Please confirm that “reclamation, fertilization and reseeding” has occurred.
 - Ordering paragraph 16: “Reclamation, fertilization and reseeding shall be completed by Baldwin Wind according to the Natural Resource Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.”
 - Baldwin Wind has confirmed via visual inspection that reclamation, fertilization, and reseeding has occurred. Baldwin Wind has not located additional documentation responsive to the request. Baldwin Wind notes that it is the company’s standard practice to bring the land back to its natural state after construction, unless otherwise specified by the landowner and approved by the Commission, and the condition of the land is consistent with this standard.

- **Request:** Staff requests further information on Finding of Fact 37 regarding shadow flicker.
 - Ordering paragraph 32: “Baldwin Wind shall work with landowners and residents in the area to mitigate any adverse effects that results from the construction of the energy conversion facility.”
 - Finding of Fact 37: “While though there are no established standards, the siting recommendation of the American Wind Energy Association for allowable shadow flicker is 30-40 hours per year. There are currently three occupied residences that exceed 30 hours per year and Baldwin Wind is working cooperatively with these owners to secure participation agreements. If such agreements cannot be secured, Baldwin Wind will utilize alternative turbine locations to avoid shadow impacts on these three residences. Should shadow flicker occur and result in complaints from occupants of residences, Baldwin Wind, at its expense, will work with the owner to promptly undertake measures, such as tree planting or installation of awnings to mitigate shadow flicker.”
 - **Response:** In the “Shadow Flicker Impact Analysis for the Baldwin Wind Energy Center” report prepared by Tetra Tech and filed on June 3, 2010, Table 1B shows three receptors that predicted shadow flicker greater than 30 hours per year. As mentioned in the order, the siting recommendation of the American Wind Energy Association for allowable shadow flicker is 30-40 hours per year. Of the three receptors that predicted shadow flicker greater than 30 hours, only one is occupied, receptor ID 40039. Baldwin Wind has a participation agreement in place with the resident near receptor ID 40039. Receptor ID 2027 is unoccupied and receptor ID 40074a is a non-residential building. Baldwin Wind therefore met the shadow flicker requirements in the Commission’s order. Baldwin Wind has not received any complaints regarding shadow flicker since commercial operation of the site.
- **Request:** Staff requests further information on Finding of Fact 38 regarding noise levels.
 - Ordering paragraph number 32: “Baldwin Wind shall work with landowners and residents in the area to mitigate any adverse effects that results from the construction of the energy conversion facility.”
 - Finding of Fact 38: “No turbines will be placed within 1400 feet of an occupied residence. The average noise levels at such residences should not exceed 48.6 decibels.”
 - In the attached “Baldwin Wind Energy Center Acoustic Assessment Burleigh County, North Dakota” report prepared by Tetra Tech in October 2009, Table 7 shows two unoccupied residence IDs with a noise level that exceeds the 48.6 decibel requirement. Consistent with Finding of Fact 38, Baldwin Wind did not locate turbines within 1400 feet of an occupied residence and average noise levels at occupied residences did not exceed 48.6 decibels. Although residence ID number 2027 is now occupied, at the time the site was built, both residences were unoccupied. Baldwin Wind has not received any complaints regarding noise levels since commercial operation of the site.
- **Request:** Staff requests further information on Tree and Shrub Mitigation Specifications
 - Ordering Paragraph 15: “Tree and shrub replacements shall be inspected once a year for three years, on about the anniversary of the plantings, and, on or shortly

before October 1 of each year, a report shall be submitted to the Commission documenting the condition of replacement planting and any woodlands work completed. If after three years from the anniversary of the plantings the survival rate is less than 75%, the Commission may order additional planting(s).”

- **Response:** Baldwin Wind filed three years of survival reports in October 2012, October 2013 and September 2014. Baldwin Wind notes that the replantings performed in 2013 and 2014 were done proactively after a heavy rainstorm and not because survival rates were below 75%. In the final report in 2014, notwithstanding the replantings, the survival rate was above the required 75%.

Ashtabula Wind III: PU-10-147

- **Request:** Please confirm that “reclamation, fertilization and reseeding” has occurred.
 - Ordering paragraph 14: “Reclamation, fertilization and reseeding will be completed by Ashtabula III according to the Natural Resource Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.”
 - **Response:** Ashtabula Wind III has confirmed via visual inspection that reclamation, fertilization, and reseeding has occurred. Ashtabula Wind III has not located additional documentation responsive to the request. Ashtabula Wind III notes that it is the company’s standard practice to bring the land back to its natural state after construction, unless otherwise specified by the landowner and approved by the Commission, and the condition of the land is consistent with this standard.

Thank you for your attention to this matter. Please feel free to contact me at (561) 304-5641 should you have any questions.

Sincerely,



Brian Duncan

Director

Business Management – Midwest Region

Attachments for PU-07-722

From: David Knain
To: Griger, Anne-Marie;
cc: Trevor Moen;
Subject: RE: Langdon tree inventory
Date: Tuesday, June 15, 2010 2:14:40 PM

Hello Anne-Marie,

Wanzek was the contractor for the Langdon II project which consisted of 27 of the 133 turbines on-site. During the construction of our portion, we did not remove any trees. DH Blattner was the contractor on the original 106 turbines.

Thanks,
Dave

DAVE KNAIN | Director of Estimating | Wind Energy | **Wanzek Construction, Inc.** |
a MasTec Company | p: 701-893-3627 | f: 701-893-3628 | c: 701-371-3982 | e:
dknain@wanzek.com

From: Griger, Anne-Marie [mailto:Anne-Marie.Griger@tetrattech.com]
Sent: Friday, June 11, 2010 4:26 PM
To: David Knain
Subject: Langdon tree inventory

Hello Dave,

I was told that you were the project manager for Wanzek for NextEra's Langdon wind farm project. We are working on preparing tree mitigation plans for several of their wind farms, for submittal to the ND PSC, and I was hoping you could provide me with an inventory of the trees that were removed (if any) for that project. A spreadsheet with the location, tree type, number of trees, and landowner, if possible, would be great. Please feel free to call me if you want to discuss.

Thanks,

Anne-Marie

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