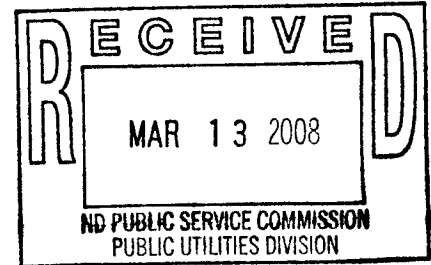




600 E Boulevard Ave., Dept. 602
Bismarck, ND 58505-0020

March 12, 2008



Susan Wefald, President
Tony Clark, Commissioner
Kevin Cramer, Commissioner
North Dakota Public Service Commission
600 E Blvd Ave
Bismarck, ND 58505

Susan *Tony* *Kevin*

Dear President Wefald, Commissioner Clark and Commissioner Cramer:

I am writing regarding proposed wind projects in Barnes County and concerns that have been raised by landowners regarding the potential location of wind turbines in relation to adjacent property lines. As you know, this issue has been raised about earlier projects and is likely to be a continuing issue in future projects. The potential turbine locations may detract from the adjacent landowners' ability to utilize the wind resource on their property.

As you are well aware, Florida Power & Light is working to develop a 200 MW project east of Lake Ashtabula, near Valley City. M-Power, LLC is developing a 150 MW project near Luverne.

Landowners and others have raised concerns with me regarding the FPL project and proposed locations of wind turbines. The primary concern is the lack of reasonable setbacks from property lines or compensation for adjacent landowners whose wind resource is diminished. This issue is not currently regulated by the State of North Dakota, except in those cases where wind farms are proposed to exceed 100 MW, in which case it appears the PSC could exercise jurisdiction.

Other industries in the state – such as oil and gas – that utilize or draw on shared resources under the ownership of several landowners are regulated. NDCC Section 38-08 requires that all oil and gas resource owners within an established unit receive formula-based compensation when oil and gas development affects their resource. I think a similar rationale should be used for wind development. In many cases with wind development, only the landowners with turbines on their property are compensated by the developer; the landowners without turbines are left with a diminished or perhaps unusable wind resource for future development.

Setback requirements are not new to wind development. Minnesota's permitting process includes setback requirements – 5 rotor diameter for prevailing winds and 3 rotor diameter for non-prevailing winds. Most of the developers working in North Dakota have also developed projects under the Minnesota guidelines.


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It is my understanding that the Public Service Commission has the ability, under current siting authority, to provide conditions for setbacks to address direct and indirect economic impacts. I would urge the PSC to carefully review any wind company conditional use permit requests and to include setback requirements or adjacent affected landowner compensation provisions in such permits.

I would also urge the Commission to carefully and quickly consider these siting issues. As you know, the federal production tax credit for wind projects is set to expire at the end of 2008. Wind projects must have their turbines erected by the end of 2008 in order to qualify for the expiring credit. If this issue is not resolved in a timely manner, the Barnes County wind projects may both be in jeopardy if litigation is sought to resolve the issues rather than state guidance or intervention.

North Dakota enjoys wonderful potential and opportunity in wind resource development. I am committed to ensuring that this development occurs in a fair and equitable manner for all concerned parties. I look forward to working with you in the future to maximize the wind benefits in the state.

Sincerely,



Roger Johnson
Agriculture Commissioner



RJ/pl

Cc: Brett Brudvik, Ohnstad Twichell, P.C.
Scott Scovill, FPL Energy