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July 7, 2009

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*Hand Delivery*

**PUBLIC SERVICE COMMISSION**

Mr. Darrell Nitschke  
Executive Director  
NORTH DAKOTA PUBLIC  
SERVICE COMMISSION  
12<sup>th</sup> Floor, State Capitol  
600 E. Boulevard Ave., Dept. 408  
Bismarck, ND 58505-0480

Dear Mr. Nitschke:

In re: M-Power, LLC  
Electric Generation/Wind – Griggs/Steele Counties  
Siting Application  
Case No. PU-08-34  
Our File No. 35-218-009

Please find attached the original and ten copies of the Certificate Relating to Order Provisions – Wind Energy Conversion Facility Siting in the above captioned matter.

Very truly yours,



BRIAN R. BJELLA

bw

**134 PU-08-34** Filed: 7/6/2009 Pages: 6  
**Executed Certificate Related to Order Provisions –  
Wind Energy Conversion**

Ashtabula Wind II, LLC

**13 PU-09-221** Filed: 7/6/2009 Pages: 6  
**Executed Certificate Related to Order Provisions –  
Wind Energy Conversion**

Ashtabula Wind II, LLC

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**M-Power, LLC**  
**Electric Generation/Wind – Griggs/Steele County**  
**Siting Application**

**Case No. PU-08-34**

**CERTIFICATION RELATING TO ORDER PROVISIONS - WIND ENERGY  
CONVERSION FACILITY SITING**

I am Scott Scovill, a representative of Ashtabula II. (Ashtabula) with authority to bind Ashtabula to requirements to be set forth by the Commission in its Order and I certify the following:

1. Ashtabula understands and agrees that the Certificate of Site Compatibility will be issued by the Commission subject to the conditions and criteria set forth in Chapter 49-22 of the North Dakota Century Code and Chapter 69-06-08 of the North Dakota Administrative Code, and that Ashtabula will be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Ashtabula agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Ashtabula representative, its construction supervisor, and a representative of Commission Staff, to ensure that Ashtabula fully understands the conditions set forth in the Commission's order.
3. Ashtabula agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the proposed energy conversion facility including all city, township, and county zoning regulations.
4. Ashtabula agrees that it shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction activity associated with the energy conversion facility that requires said license or permit.
5. Ashtabula understands and agrees that the Certificate of Site Compatibility is subject to suspension or revocation and may, in an appropriate and proper case, be suspended or revoked for failure to comply with the Commission's order, the conditions and criteria of the certificate or subsequent modification, or failure to comply with the applicable statutes, rules, regulations, standards, and permits of other state or federal agencies.
6. Ashtabula agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order and the Certificate of Site

Compatibility, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.

7. Ashtabula agrees to inform the Commission of its intent to start construction on the energy conversion facility prior to the commencement of construction. Once construction has started, Ashtabula shall keep the Commission updated of construction activities on a weekly basis.
8. Ashtabula agrees to construct and operate the energy conversion facility in the manner described in Ashtabula's application, in any late filed exhibits and supplemental materials, and in accordance with all applicable safety requirements.
9. Ashtabula agrees to report promptly to the Commission the presence in the permit area of any critical habitat of threatened species, endangered species, bald eagles, or golden eagles that Ashtabula becomes aware of and which were not previously reported to the Commission.
10. Ashtabula understands that all cultural resource mitigation plans must be submitted to the NDSHPO and approved prior to the start of any fieldwork and construction activity in the affected area.
11. Ashtabula understands and agrees that if any cultural resource, paleontological site, archeological site, historical site, 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.
12. Ashtabula understands and agrees that all underground electric line crossings of graded roads shall be bored unless the responsible governing agency specifically permits Ashtabula to open cut the road.
13. Ashtabula understands and agrees that all pre-existing township and county roads and lanes used during construction must be repaired or restored to a condition that is equal to or better than the condition prior to the construction of the energy conversion facility and that will accommodate their previous use, and that areas used as temporary roads or working areas during construction must be restored to their original condition.
14. Ashtabula is aware that North Dakota law requires that all companies that own or operate electric generation of any size for the primary purpose of resale must comply with the standards of the National Electrical Safety Code in effect at the time of construction of the generation facility, and agrees to comply with that requirement.

15. Ashtabula understands and agrees that construction must be suspended when weather conditions are such that construction activities will cause irreparable damage to roads or land, unless adequate protection measures approved by the Commission are taken.
16. Ashtabula understands and agrees that where available, at least 12 inches of topsoil over and along trench areas, roadways, tower locations, and locations of associated facilities shall be stripped and shall be segregated from the subsoil and be replaced only after the subsoil is replaced.
17. Ashtabula agrees that it shall bury all underground collection and feeder lines to a depth of at least 48 inches to the top of the lines.
18. Ashtabula understands and agrees that reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.
19. Ashtabula understands and agrees that its obligation for reclamation and maintenance of energy conversion facility tower locations, associated facilities, roadways and rights-of-way will continue throughout the life of the energy conversion facility.
20. Attached is a document titled Tree and Mitigation Specifications. Ashtabula agrees to comply with these specifications if the Commission chooses to include all or a portion of the requirements and conditions contained in this attachment in its Order.
21. Ashtabula agrees that it shall repair or replace all fences and gates removed or damaged during all phases of construction and operation of the proposed energy conversion facility.
22. Ashtabula agrees that it shall repair or replace all broken or damaged drainage tile during all phases of construction and operation of the proposed energy conversion facility.
23. Ashtabula agrees that staging areas or equipment shall not be located on cultivated land unless otherwise negotiated with landowners.
24. Ashtabula agrees that it shall remove all waste that is a product of construction and operation, restoration, and maintenance of the site, and properly dispose of it on a regular basis.

25. Ashtabula agrees that it shall, as soon as practicable upon the completion of the construction of each wind turbine, restore the area affected by the activities to as near as is practicable to the condition as it existed prior to the beginning of construction.
26. Ashtabula agrees that it shall provide, if requested, educational material for landowners within the site boundaries about the proposed energy conversion facility and any restriction or danger concerning the proposed energy conversion facility.
27. Ashtabula agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the energy conversion facility.
28. Ashtabula agrees that it shall advise the Commission of any extraordinary events which take place at the site of the energy conversion facility, such as a tower collapse, catastrophic turbine failure, injured worker or private individual, the death of any threatened or endangered species, or the discovery of a large number of dead birds or bats on the site within five business days of such event.
29. Ashtabula agrees that it shall implement a procedure for how complaints concerning the proposed energy conversion facility will be handled by Ashtabula.
30. Ashtabula agrees that it shall work with landowners and residents to mitigate any increase in television and residential radio interference that results from the construction of the energy conversion facility.
31. Ashtabula is aware that under North Dakota Century Code section 49-02-27 the Commission has rules for decommissioning of wind energy conversion facilities. Ashtabula agrees to comply with all decommissioning rules adopted by the Commission.
32. Ashtabula agrees to provide the Commission with engineering design drawings showing surveyed structure and collection substation locations prior to construction, and understands and agrees that it must obtain approval from the Commission or from Commission Staff prior to any changes in the energy conversion facility tower, associated facility, and roadway locations.
33. Ashtabula agrees to provide the Commission with a copy of the design specifications for the construction of the energy conversion facility showing the location of the energy conversion facility as built, and will provide this information within three months of the completion of the construction.
34. Ashtabula understands and agrees that the authorizations granted by the Certificate of Site Compatibility for the energy conversion facility are subject to

modification by order of the Commission if deemed necessary to protect further the public or the environment.

35. Ashtabula wind agrees to inform the Commission in writing of any plans to add additional turbines to the energy conversion facility or of any plans to modify the site plan for the energy conversion facility. Any additions or modifications to the site plan for the energy conversion facility must be approved in writing by the Commission or Commission staff. Approval may be granted after notice and hearing.

Dated this 6 day of July, 2009.

Ashtabula II

By *Sally Skumell*

Its *Director, Wind Development*