

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

|                            |   |                      |
|----------------------------|---|----------------------|
| Public Service Commission, | ) | Case No. PU-08-784   |
| Complainant,               | ) |                      |
|                            | ) |                      |
| vs.                        | ) | <b>Consent Order</b> |
|                            | ) |                      |
| Tatanka Wind Power, LLC,   | ) |                      |
| Respondent.                | ) |                      |
|                            | ) |                      |

The North Dakota Public Service Commission (Commission) has determined as follows:

1. Tatanka Wind Power LLC (Tatanka) is indirectly owned by Acciona Wind Energy USA, LLC, a Delaware limited liability company, Aircraft Services Corporation, a Nevada corporation, and Tatanka WF, LLC, a Delaware limited liability company. Tatanka's North Dakota registered agent is CT Corporations System, 314 E Thayer Ave, PO Box 400, Bismarck, ND 58502-0400.
2. On March 21, 2007, the Commission issued Tatanka Corridor Certificate No. 96 and Route Permit No. 106 under North Dakota Century Code Chapter 49-22 authorizing construction of approximately 12.5 miles of 230 kV transmission facilities from a point on the South Dakota border to a proposed interconnection in Dickey County, North Dakota, subject to terms and conditions included in the Commission's Findings of Fact, Conclusions of Law, and Order in Case No. PU-06-443, Tatanka Wind Power, LLC; 230 kV Transmission Line/Dickey-McIntosh Ctys. Siting Application.

3. North Dakota Century Code Chapter 49-22 codifies the state's energy transmission siting law, prohibiting construction or operation of jurisdictional facilities without authorization from the Commission, and authorizing the Commission to impose conditions on such authorization.

4. Paragraph 19 of the Commission's March 21, 2007 Findings of Fact, Conclusions of Law, and Order on Tatanka's application under North Dakota Century Code Chapter 49-22 requires Tatanka to obtain approval from the Commission or Commission staff prior to any changes in structure locations.

5. Tatanka began construction of the transmission line on or about August 6, 2007, and filed weekly construction reports with the Commission from August 6, 2007 through November 11, 2007.

6. In the process of constructing the transmission line, Tatanka moved a number of the structures from the locations identified in Case No. PU-06-443 to accommodate field conditions, including aerial easements, road and section line easements, wetlands and waterfowl production areas, and standing trees. None of these modifications has adversely impacted any environmental or other factors or criteria considered in Case No. PU-06-443.

7. Tatanka did not request approval of structure location changes in any of its weekly construction reports.

8. On June 23, 2008, Tatanka filed a letter requesting amended route for several field modifications that had been made to structure locations along the permitted transmission line route.

9. On September 23, 2008, North Dakota Public Service Commission Staff filed its Complaint (the "Complaint") attached as Exhibit 1.

10. The Commission is authorized by North Dakota Century Code section 49-22-21 to impose penalties as appropriate under the circumstances and may include a fine of up to \$200,000.

11. Respondent is represented by counsel in this matter. Respondent further acknowledges that at the time of signing the Consent to Entry of Order, it was aware of or had been advised of its rights to a hearing in this matter, to present argument to the Commission, to appeal from any adverse determination after a hearing, and Respondent expressly waives those rights.

12. Respondent has agreed to informal disposition of this matter, without a hearing, as provided under North Dakota Century Code section 28-32-22.

13. The parties acknowledge this Order is a compromise of disputed claims, and the monetary payment is not to be construed as an admission of the allegations on the part of the Respondent. Respondent denies the allegations and merely intends to avoid litigation.

14. There are no covenants, promises, undertakings, or understanding other than as specifically set forth in this Order.

15. For purposes of resolving this matter, without further administrative proceedings, Tatanka and the Commission have agreed to enter into the following order.

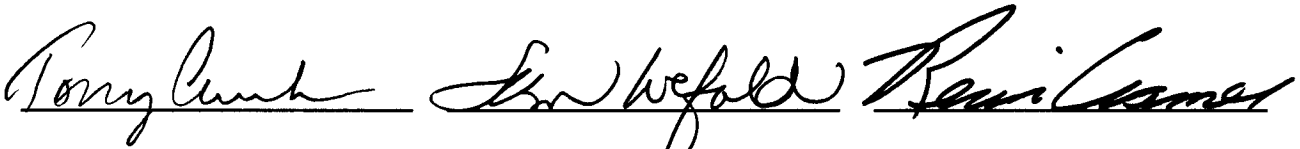
**NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

1. Respondent agrees to pay a fine of \$10,000 payable to the North Dakota Public Service Commission within ten business days of the effective date of this Order.

2. The Complaint is dismissed with prejudice and no further action is required by Respondent with respect to the matters set forth in the Complaint, including obtaining any further approvals of the structure location changes referred to in the Complaint.

DATED this 5<sup>th</sup> day of November, 2008.

**PUBLIC SERVICE COMMISSION**



**Tony Clark**

**Susan E. Wefald**

**Kevin Cramer**

**Commissioner**

**President**

**Commissioner**

**CONSENT TO ENTRY OF ORDER**

The undersigned, on behalf of Tatanka Wind Power, LLC, states that he has read the foregoing Consent Order, that he knows and fully understands its content and effect, that he has been advised of the right to a hearing in this matter, the right to be represented by legal counsel, the right to present evidence and arguments to the Commission, and the right to appeal from an adverse determination after hearing; and that by signing this Consent to Entry of Order he waives the those rights in their entirety on behalf of Tatanka Wind Power, LLC, and consents to entry of this Order by the North Dakota Public Service Commission. It is further expressly understood that this Order

constitutes the entire settlement agreement between the parties, there being no other promises or agreements, either express or implied.

DATED this 23<sup>rd</sup> day of October, 2008.

Tatanka Wind Power, LLC

By  \_\_\_\_\_  
Peter Duprey  
Its President and Chief Executive Officer