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September 8, 2017

Mr. Darrell Nitschke
Executive Director
North Dakota Public Service Commission
600 E. Boulevard Avenue, Dept. 408
Bismarck, ND 58505-0480

Re: Merricourt Wind Energy Project Application for a Second Amendment to Certificate No. 23, Case No. PU-08-932

Dear Mr. Nitschke:

EDF Renewable Development, Inc. (“EDF”) submitted an application for an amendment in the above-referenced matter during the most recent session of the North Dakota Legislative Assembly. On behalf of EDF, we write today to explain its plans to voluntarily comply with certain newly enacted or approved wind facility rules and requirements.

EDF (then the enXco Corporation) was first issued its Certificate of Site Compatibility No. 23 (the “Certificate”) for the Merricourt Wind Energy Project (the “Project”) on June 8, 2011. Later the Public Service Commission (the “Commission”) amended the Certificate to update the layout and turbine model on May 27, 2015 (the “1st Amendment”). Currently EDF is seeking a second amendment to its Certificate to reflect layout changes so that EDF may accommodate significant wildlife avoidance and minimization measures.

EDF is aware that the legislature passed a number of measures earlier this year that would apply to new Certificates. For example, Senate Bill 2313 expanded the wind specific exclusion areas for “projects that receive a certificate of site compatibility after August 1, 2017.” The Commission also recently approved new administrative rules related to decommissioning requirements that do not apply to projects “for which a certificate of site compatibility has been issued prior to July 1, 2017.” While these changes are generally prospective in nature and do not directly apply to the Project or its Certificate, EDF plans to voluntarily comply with the turbine setback standards now contained in North Dakota Century Code 49-22-05.1(3) as a result of Senate Bill 2313 and new decommissioning requirements announced May 2, 2017 as revisions to North Dakota Administrative Code Section 69-09-09. With respect to the setback requirements, EDF has also confirmed that no turbine set forth in the layout included in EDF’s application for a

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second amendment is within 1.1 times the turbine height from the property line of a nonparticipating landowner nor is any turbine, as proposed, within 3 times the height of the turbine from an inhabited nonparticipating landowner residence.

Separately, we note that EDF is also planning a light mitigation strategy for the Project and will design and install lighting compatible with both aircraft detection and atmospheric dimmer technologies at Merricourt such that light mitigation technology will be operational prior to the December 31, 2021 deadline set forth in N.D.C.C. 49-22-16.4(3).

Sincerely,

Stoel Rives LLP



Sara E. Bergan