

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Rough Rider Wind I, LLC
175 MW Wind Farm – Dickey County
Siting Application**

Case No. PU-09-84

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

August 12, 2009

Appearances

Commissioners Kevin Cramer, Tony Clark, and Brian P. Kalk.

Brian R. Bjella, Attorney-at-Law, Crowley Fleck, PLLP, 400 East Broadway, Suite 600, Bismarck, North Dakota 58501, on behalf of the Applicant, Rough Rider Wind I, LLC.

Annette Bendish, Legal Counsel, Public Service Commission, State Capitol, Bismarck, North Dakota 58505, on behalf of the Public Service Commission.

Al Wahl, Administrative Law Judge, Office of Administrative Hearings, 1701 North Ninth Street, Bismarck, North Dakota 58501-1882, as Procedural Hearing Officer.

Preliminary Statement

On June 23, 2008, FPL Energy, LLC (FPL Energy) filed a Letter of Intent (LOI) to submit an application for a Certificate of Site Compatibility for a 150 MW wind energy conversion facility in Dickey County, North Dakota. FPL Energy requested in its LOI that the Commission shorten the one-year waiting period required between filing of the LOI and the filing of an application.

On July 2, 2008, the North Dakota Public Service Commission (Commission) shortened the one-year waiting period to one day, and assessed a filing fee of \$100,000.00.

On February 19, 2009, Rough Rider Wind I, LLC (Rough Rider Wind I) filed an application for a Certificate of Site Compatibility authorizing construction of the 175 MW Rough Rider 1 Wind Energy Center consisting of up to 116 wind turbine generators and associated facilities in Dickey County, North Dakota. It was noted that the project was expanded to 175 MW from 150 MW requested in the LOI.

On February 20, 2009, NextEra Energy Resources, LLC f/k/a FPL Energy, LLC filed a request with the Commission that this case be transferred to the name of Rough Rider Wind I, LLC. Rough Rider Wind I, LLC, a wholly-owned subsidiary of NextEra Energy Resources, LLC (f/k/a FPL Energy, Inc.) was created August 11, 2008, and was registered to do business in the State of North Dakota effective September 3, 2008.

On March 11, 2009, the Commission deemed the application complete and issued a Notice of Filing and Notice of Hearing, scheduling a public hearing for April 28, 2009, at 10:00 a.m. CT, at the Fireside Restaurant, 414 First Avenue North, Ellendale, ND 58436. The Notice identified the following issues to be considered:

1. Will the location, construction and operation of the proposed facilities produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?
2. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?
3. Will the proposed facility location minimize adverse human and environmental impacts while ensuring continued system reliability and integrity, and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

On April 21, 2009, Rough Rider Wind I filed an executed Certification Relating to Order Provisions – Wind Energy Conversion Facility Siting.

On April 28, 2009, a public hearing was held as scheduled. Having allowed all interested persons an opportunity to be heard, and having heard, reviewed, and considered all testimony and evidence presented, the Commission makes the following:

Findings of Fact

1. Rough Rider Wind I, LLC is a Delaware limited liability corporation headquartered in Juno Beach, Florida. Rough Rider Wind I, LLC is a subsidiary of NextEra Energy Resources, LLC (formerly FPL Energy, LLC), also of Juno Beach, Florida, and a national leader in the development of wind energy.
2. Rough Rider Wind I, LLC was created August 11, 2008, and was registered to business in the State of North Dakota effective September 3, 2008, as evidenced by a Certificate of Good Standing issued by the North Dakota Secretary of State on February 25, 2009.
3. Rough Rider Wind I proposes to construct and own a wind energy facility (the Rough Rider Wind Energy Center) to be located in Dickey County, North Dakota, approximately 15 miles northwest of the city of Ellendale, and seven miles north of

Forbes, North Dakota. The project area consists of approximately 16,100 acres (25 square miles). The wind turbines will be placed throughout the project site.

4. Associated facilities to be constructed within the project area include access roads, underground electrical and feeder lines, an electrical substation, meteorological towers, wind monitoring stations, and an operations and maintenance building.

5. North Dakota Century Code § 49-22-16 provides that no energy conversion facility site shall be designated if it violates any county or city land use, zoning, building rules, regulations or ordinances. Dickey County does not require zoning permits for construction.

Project Design

6. The project will have a nameplate (gross) generating capacity of 175 MW, consisting of 116 1.5 MW wind turbines and associated facilities. Assuming net capacity factors are between 42% and 48%, the projected average annual output is estimated between 644,000 and 736,000 MWh per year.

7. Rough Rider Wind I plans to use General Electric 1.5 MW turbines. These are utility-grade wind turbines with a nominal nameplate rating of 1,500 kW. Each turbine will have an 80-meter (262 feet) hub height and an 82.5 meter (271 feet) rotor diameter. Each turbine begins operating at wind speeds of 3.5 meters per second (m/s), or 7.8 miles per hour (mph), and reaches its rated capacity (1.5 MW) at a wind speed of 12.5 m/s (28 mph). The turbines are designed to generate electricity in sustained wind speeds between 3.5 and 20 m/s (8 and 45 mph).

8. Each turbine is designed to operate at wind speeds of up to 25 m/s (56 mph) and can withstand wind speeds of over 45 m/s (100 mph).

9. Each turbine is secured by a concrete foundation that typically extends seven to ten feet below grade where it spreads to a final diameter of 40 to 60 feet at the base. Turbine lighting is limited to warning lights required by the Federal Aviation Administration (FAA). The control panel inside the base of each turbine tower houses communication and electronic circuitry. Each turbine is equipped with a wind speed and direction sensor that communicates with the turbine's control system to signal when sufficient winds are present for operation. Electricity generated by each turbine is brought to a pad-mounted transformer where the voltage is stepped up to a power collection line voltage of 34.5 kV. This electricity is collected by sets of underground power collection lines.

10. An underground collection feeder system will deliver the electricity to a project collection substation. At the project collection substation the voltage will be stepped up to 230 kV for transmission via an existing 230 kV transmission line owned by Montana-Dakota Utilities Company, a Division of MDU Resources Group, Inc. (MDU).

11. Wind data was collected from one 50-meter and four 60-meter meteorological towers constructed on the project site, which have been collecting data since 2004. This data, along with the May 2004 Department of Energy (DOE) wind map for the state of North Dakota, indicates that wind resources within the project vicinity consist of Class V winds or greater. Class V winds have an average annual wind speed of 14 mph. The data from the meteorological towers and the DOE wind map indicate that this is an ideal site for a wind farm.
12. Construction of the Rough Rider Wind I Energy Center is expected to take approximately six months, at a total estimated construction cost of \$310 million.
13. Rough Rider Wind I anticipates commencing construction in July, 2009, testing and operations to begin in October, 2009, and commercial operation to begin in December, 2009.
14. An Engineering, Procurement, and Construction (EPC) contractor will be retained for construction management of the project. The EPC contractor will use services of local contractors, where possible, to assist in project construction.
15. Safety factors will be incorporated into the wind turbines. Each turbine will be equipped with a Supervisory Control and Data Acquisitions (SCADA) communication technology to control and monitor the turbine. In addition, each turbine is equipped with a lightning protection system and is grounded and shielded to protect against lightning.
16. Construction and operation of the Rough Rider Wind I Energy Center will conform to requirements of the National Electric Safety Code.

Siting Criteria

17. North Dakota Administrative Code Chapter 69-06-08 sets forth certain criteria to guide the Commission in evaluating the suitability of granting an application for the certificate of site compatibility. The criteria set forth in North Dakota Administrative Code § 69-06-08-01 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria. With the exception of prime and unique farm land, an energy conversion facility must not be sited within an Exclusion Area. The exception for prime and unique farm land is if the Commission finds that the prime farm and unique farm land that will be removed from use for the life of the facility is of such small acreage as to be of negligible impact on agricultural production, then such exclusion shall not apply. An energy conversion facility must not be sited within an Avoidance Area unless the applicant shows that under the circumstances there is no reasonable alternative. In determining whether an Avoidance Area should be designated for a facility, the Commission may consider, among other things, the proposed management of adverse impacts; the orderly siting of facilities; system reliability and integrity; the efficient use of resources; and alternate sites. In accordance with the Commission's Selection Criteria, an energy conversion facility shall be approved only if it is demonstrated that no significant adverse impacts will result from the location,

construction, and operation of the facility. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits of the energy conversion facility.

18. The project layout dated February 10, 2009 includes up to 1.63 acres of project infrastructure in prime farm land if drained, not including the collection lines that will be buried and would be a temporary disturbance of soil. No prime farmland would be disturbed by the turbines or by the substation. The Commission finds that unique and prime farm land to be disturbed by this energy conversion facility is of such small acreage as to be of negligible impact on agricultural production.

19. Approximately 12.8 acres of agricultural production will be impacted due to turbine placement, with an additional 216.6 acres due to access roads, and 3.5 acres due to the operations and maintenance facility and project substation. Wind turbine configuration will not result in significant impacts to agricultural production. No impacts on the agricultural quality of the crop land are anticipated. If compaction of soils occurs during construction, Rough Rider Wind I will work with landowners to alleviate the compaction.

20. Rough Rider Wind I submitted evidence to demonstrate that the proposed energy conversion facility would not have significant impact on the Selection Criteria set forth in North Dakota Administrative Code § 69-06-08-01(3).

21. Rough Rider Wind I submitted evidence to demonstrate its commitment to maximize the benefits of the proposed energy conversion facility as far as is possible so as to meet the Policy Criteria set forth in North Dakota Administrative Code § 69-06-08-01(4).

22. No significant adverse impact is foreseen on the ability of the affected area to provide community services, such as housing, health care, schools, police and fire protection, water and sewer, solid waste management, transportation, or public safety. The proposed project area is expected to be of economic benefit to the affected area.

23. The only Avoidance Areas identified within the project area are historical resources that are not designated as exclusion areas, woodlands, and wetlands. The historical resources will be avoided. Woodland impacts are not anticipated. Wetlands will be avoided to the extent practicable. Rough Rider Wind I will obtain appropriate permits from the United States Army Corps of Engineers as necessary for any jurisdictional wetlands impacted.

Cultural Resources:

24. Several potentially-eligible National Register of Historic Property Sites are contained within the project area. Rough Rider Wind I will avoid construction at all such sites.

25. With respect to historical resources that are not designated as Exclusion Areas, Rough Rider Wind I has consulted the North Dakota State Historic Preservation Office (SHPO). Class I and Class III Cultural Resource Inventories, including review of SHPO's site and managed files, was conducted by Beaver Creek Archeology, Inc., of Linton, North Dakota, for the project area. During the course of the inventory, one previously-recorded site, three previously-recorded site leads, and one previously-recorded architectural site were identified within one mile of the project area. None of these sites or site leads will be impacted by the project. Twelve new cultural resource sites were identified within the project area, being one stone circle site with a rock cairn, six rock cairn sites, two historical archeological sites, one standing structure site, one historic cemetery and one historic grave. These sites will be avoided by project construction. The SHPO has concurred with the "No Historic Properties Affected" and "No Significant Site Affected" determinations for this project. Beaver Creek Archeology will be conducting an additional survey due to the revised location of a few of the project facilities. A recommendation will be forwarded to SHPO for review, and seeking concurrence from SHPO.

Wetlands and Wildlife:

26. Rough Rider Wind I has consulted with numerous local, state, and federal agencies, which are identified in Appendix D of the application. Two agencies providing significant input were the North Dakota Game and Fish Department and the United States Fish and Wildlife Service (USFWS). Neither agency has objected to construction of the project.

27. The North Dakota Game and Fish Department indicated its primary concern is with disturbance of native prairie and wetlands. Native prairie and USFWS easements are located within the project area. Rough Rider Wind I met with the USFWS to discuss these areas. There will be no impact to the USFWS grassland easements. The disturbance of native prairie will be minimal.

28. Concerns of the USFWS focused on migratory birds, wetlands, native grasslands, woodland resources, and threatened and endangered species. In the Fall of 2008, Rough Rider Wind I conducted an avian survey and the results were submitted to the Commission. Based on that survey, the potential for avian and bat collisions with turbines is anticipated to be relatively small. Rough Rider Wind I will implement measures to avoid and minimize effects to wildlife at the proposed site by locating facilities away from wetlands and woodlands when possible.

29. During the 2008 fall avian survey, a golden eagle and a bald eagle were detected. These two species are federally protected under the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act. The eagles may be occasional visitors to the area. It is not anticipated that construction or operation of the wind energy center will impact the eagles or their habitat.

30. Rough Rider Wind I will implement its Wildlife Response Reporting System (WRRS) once turbine construction is completed. The WRRS will include protocols for

field technicians to report and document avian mortalities during routine maintenance operations.

31. Federally-listed whooping crane and gray wolf have been known to occur in Dickey County. There is suitable roosting and foraging habitat for whooping cranes in the project area, so cranes may use the area at some point during the life of the project. The population size of whooping cranes in the area is small, and the project area is on the edge of the 180-mile-wide whooping crane migration corridor where 95% of whooping crane sighting in North Dakota have occurred, so the likelihood of mortality will be small. Although the primary threats to this species include loss of roosting and foraging habitat and collisions with power lines and fences, only 233 acres (1.45% of the project area) will be permanently disturbed, and no overhead transmission lines are included in the project. The project area is located outside the gray wolf's normal habitat range, so it is unlikely that the project would have an effect on the gray wolf.

32. While the Dakota Skipper, a federal candidate species of butterfly, is documented in counties adjacent to Dickey County, there are no documented observations of the Dakota Skipper in Dickey County. The USFWS does not have critical habitat locations for the Dakota Skipper in Dickey County. Therefore, impacts to the Dakota Skipper are expected to be minimal.

33. A waterfowl production area administered by the United States Fish and Wildlife Service is located within the project area, known as the Reinke Waterfowl Production Area. Rough Rider Wind I proposed a buffer of 0.25 miles from the area. The Rutsche Waterfowl Production Area is located adjacent to the project area. Rough Rider Wind I proposed a buffer of approximately 900 feet from the area (one alternate turbine would be located within the 0.25-mile buffer).

34. A wetland delineation was conducted for the Rough Rider Wind I Energy Center and the results were submitted to the Commission. Wetlands will be avoided to the extent practicable during the construction phase of the project. If impacts to Clean Water Act jurisdictional waters are unavoidable and less than one-half acre, Rough Rider Wind I will seek project authorization under a Section 404 United States Army Corps of Engineers (USACE) Nationwide Permit (NWP) application. Permanent impacts to jurisdictional waters will be mitigated according to USACE requirements. Certain wetlands within USFWS easements on private property are under USFWS jurisdiction. If wetland impacts to these wetland basins in the USFWS easements cannot be avoided, Rough Rider Wind I will work with the USFWS to obtain permits or letters of authorization and will conduct mitigation if required.

Further Mitigative Measures

35. No turbines will be placed within 1,400 feet of an occupied residence. Average noise levels at such residences should not exceed 50 decibels (dB).

36. Rough Rider Wind I has proposed setbacks of 437 feet (1.1 x 397 ft turbine height) from existing transmission lines, roads, railroads, and property boundaries.

37. Rough Rider Wind I will maintain ground water protection and soil conservation practices to protect topsoil and adjacent resources, and to minimize soil erosion during construction and operation of the project. Best management practices (BMPs) for erosion and sediment control will be used to minimize wind and water erosion in the project area during and after construction. Only land needed for the facility will be impacted. Temporarily disturbed areas will be restored.

38. Rough Rider Wind I has a legal obligation to decommission the wind energy facilities.

39. Rough Rider Wind I made other representations and agreements as contained in the Certification Relating to Order Provisions – Wind Energy Conversion Facility Siting executed by Just Wind and filed with the Commission on April 21, 2009, which is incorporated in these Findings of Fact.

From the foregoing Findings of Fact, the Commission now makes its:

Conclusions of Law

1. The Commission has jurisdiction over this proceeding under North Dakota Century Code Chapter 49-22.

2. The energy conversion facility proposed by Rough Rider Wind I is an energy conversion facility as defined in North Dakota Century Code § 49-22-03(11).

3. The application submitted by Rough Rider Wind I meets the site evaluation criteria required by North Dakota Century Code Chapter 49-22.

4. The location, construction, and operation of the proposed energy conversion facility will produce only minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.

5. The proposed energy conversion facility is compatible with environmental preservation and the efficient use of resources.

6. The proposed energy conversion facility will minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.

7. The Commission has jurisdiction to ensure compliance with National Electric Safety Code standards in the construction and operation of the proposed energy conversion facility.

8. The proposed project is of such design, location, and purpose that it will produce minimal adverse effects

From the foregoing Findings of Fact and Conclusions of Law, the Commission now make its:

Order

The Commission orders:

1. Certificate of Site Compatibility for an Energy Conversion Facility No. 12 is issued to Rough Rider Wind I for the construction, operation, and maintenance of a wind energy facility known as Rough Rider Wind I Energy Center.
2. The site as designated in the application is located approximately seven miles north of the city of Forbes, North Dakota, and is designated as the site for construction of the energy conversion facility.
3. Within the permitted area, Rough Rider Wind I is authorized to site and construct up to 175 MW of wind turbines in proposed and alternate locations, along with electric collection and communication lines, a project substation, an operations and maintenance building, meteorological towers, access roads and other associated facilities identified in the application.
4. Rough Rider Wind I shall comply with the rules and regulations of all other agencies having jurisdiction over any phase of the proposed project, including all city, township, and county zoning regulations.
5. Rough Rider Wind I shall obtain all other necessary approvals and permits, including concurrence from the State Historic Preservation Office, and provide copies to the Commission prior to any construction activity associated with the energy conversion facility that requires said concurrence, license or permit.
6. Rough Rider Wind I shall conduct a pre-construction conference prior to the commencement of any construction, and must include a Rough Rider Wind I representative, its construction supervisor, and a representative of the Commission staff to ensure that Rough Rider Wind I fully understands the conditions set forth in this Order.
7. Rough Rider Wind I shall inform the Commission of its intent to start construction on the energy conversion facility prior to the commencement of construction, and while construction is underway, Rough Rider Wind I shall keep the Commission updated of construction activities on a weekly basis.

8. Rough Rider Wind I shall construct and operate the energy conversion facility in the manner described in this application, at the hearing, in late-filed exhibits, and in accordance with all applicable safety requirements.

9. Rough Rider Wind I shall construct the energy conversion facility in compliance with the National Electric Safety Code.

10. Rough Rider Wind I shall report to the Commission the presence in the permit area of any critical habitat of threatened or endangered species, or a bald or golden eagle that Rough Rider Wind I becomes aware of and were not previously reported to the Commission.

11. If any cultural resources, paleontological resources, archeological site, historical resource, or grave site is discovered during construction of the facility, earth disturbing activities in the immediate vicinity of this discovery must be halted. The resource must be marked, preserved, and protected from further disturbance until a professional examination can be made in consultation with the North Dakota SHPO. A report of such examination must be filed with the Commission, and clearance to proceed must be given by the SHPO and the Commission.

12. All pre-existing township and county roads and lanes used during construction must be restored to a condition that will accommodate their previous use, and areas used as temporary roads during construction must be restored to their original condition.

13. Construction must be suspended when weather conditions are such that construction activities will cause irreparable damage, unless adequate protection measures approved by the Commission are taken.

14. Reclamation, fertilization, and reseedling will be completed by Rough Rider Wind I according to the Natural Resource Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.

15. Rough Rider Wind I's obligations for reclamation and maintenance of the site shall continue throughout the life of the energy conversion facility.

16. When the energy conversion facility is retired, structures and other facilities must be removed in accordance with applicable rules and the areas restored to as near as original condition as is practicable.

17. Rough Rider Wind I shall comply with the Commission's Tree and Shrub Mitigation Specifications attached to this Order.

18. Rough Rider Wind I shall repair or replace all fences and gates removed or damaged during all phases of construction and operation of the proposed energy conversion facility.

19. Rough Rider Wind I shall repair or replace all drainage tile, broken or damaged, during all phases of construction and operation of the proposed energy conversion facility.

20. Staging areas or equipment must not be located on cultivated land unless otherwise negotiated with landowners.

21. Rough Rider Wind I 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.

22. Rough Rider Wind I 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.

23. Rough Rider Wind I shall provide, if requested, educational material for landowners within the site boundaries about the proposed energy conversion facility, and any restriction of possible danger concerning the proposed energy conversion facility.

24. Rough Rider Wind I shall provide any necessary safety measures for traffic control or to restrict public access to the energy conversion facility.

25. Rough Rider Wind I shall advise the Commission of any extraordinary events that take place at the site of the energy conversion facility, such as tower collapse, extensive turbine failure, injured worker or private individual, mortality events 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.

26. Rough Rider Wind I shall implement a procedure for how complaints concerning the proposed energy conversion facility will be handled by Rough Rider Wind I.

27. All underground electric line crossing of graded roads must be bored unless the responsible governing agency permits Rough Rider Wind I to open cut the road.

28. Where available, at least 12 inches of topsoil over and along open cut areas, roadways, tower locations, and locations of associated facilities must be stripped and segregated from the subsoil and be replaced only after the subsoil is replaced.

29. Rough Rider Wind I shall work with landowners and residents in the area to mitigate any increase in television and residential radio interference that results from the construction of the energy conversion facility.

30. Rough Rider Wind I shall provide the Commission with engineering design drawings showing surveyed structure and collection substation locations prior to

construction, and shall obtain approval from the Commission or from Commission staff prior to any changes in those surveyed locations.

31. Rough Rider Wind I shall provide the Commission with as-built engineering design drawings and an electronic version of the as-built drawings that can be imported into ESRI GIS mapping software within six months after construction of the energy conversion facility is complete.

32. 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 each Certificate or subsequent modification, or failure to comply with the applicable statutes, rules, regulations, standards, and permits of other state or federal agencies.

33. Rough Rider Wind I shall maintain records that will demonstrate that it has complied with the requirements of this Order and each Certificate of Site Compatibility, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.

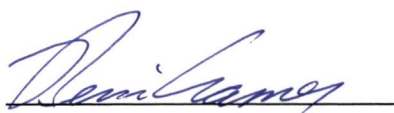
34. When the facility is at the end of its useful life Rough Rider Wind I will remove turbine structures and decommission the project area in accordance with all decommissioning rules adopted by the Commission and as delineated under North Dakota Century Code § 49-02-27.

35. The authorizations granted by each Certificate of Site Compatibility for this energy conversion facility are subject to modification by order of the Commission if deemed necessary to further protect the public or the environment.

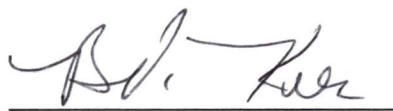
PUBLIC SERVICE COMMISSION



**Tony Clark
Commissioner**



**Kevin Cramer
Chairman**



**Brian P. Kalk
Commissioner**

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Rough Rider Wind I, LLC
175 MW Wind Farm – Dickey County
Siting Application

Case No. PU-09-84

Tree and Shrub Mitigation Specifications

Inventory

1. Trees and shrubs anticipated to be cleared, including those that are considered invasive species or noxious weeds (e.g., *Caragana arborescens*, *Elaeagnus angustifolia*, *Rhamnus cathartica*, *Tamarix chinensis*, *T. parviflora*, *T. ramosissima*, *Ulmus pumila*), shall be inventoried before cutting. The inventory shall record the location, number, and species of trees and shrubs.
2. In windbreaks, shelterbelts, and other planted areas, trees or shrubs anticipated to be cleared, regardless of size, shall be inventoried for replacement.
3. In native growth areas, trees anticipated to be cleared that are 1-inch diameter at breast height (dbh) or greater shall be inventoried for replacement.
4. In native growth areas, shrubs anticipated to be cleared in the permanent right-of-way shall be inventoried for replacement.
5. In native growth areas outside the permanent right-of-way, shrubs shall be cut flush with the surface of the ground, taking care to leave the naturally occurring seed bank and root stock intact. If soil disturbance is necessary, the native topsoil shall be preserved and replaced after construction. Shrubs shall be allowed to regenerate naturally where native topsoil is preserved and replaced. Where native topsoil is not preserved and replaced, shrubs anticipated to be cleared shall be inventoried for replacement.
6. In native growth areas, trees and shrubs may be inventoried by actual count or by sampling method that will properly represent the woody vegetation population. A sampling plan developed by the company, filed with the North Dakota Public Service Commission (Commission), submitted to the Commission at the formal hearing in this matter, and approved prior to the start of construction shall define the sampling method to be used for trees, for tall shrubs and for low shrubs. The data from the sample plots shall be extrapolated to the total acreage of the wooded area to be cleared to determine the species and quantity of trees and shrubs to be replaced.

Clearing for Construction

7. Trees and shrubs shall be selectively cleared, leaving mature trees and shrubs intact where practical.
8. The width of clear cuts through windbreaks, shelterbelts and all other wooded areas shall be limited to 125 feet or less unless otherwise approved by the Commission.

9. If the area of trees or shrubs actually cleared differs from the area inventoried, the difference in number of trees and shrubs to be replaced shall be noted on the inventory.

Replacement

10. Prior to tree or shrub replacement, documentation identifying the number and variety of trees removed as well as the mitigation plan for the proposed number, variety, type, location and date of replacement plantings shall be filed with the Commission for approval.

11. Tree replacement shall be on a 2 to 1 basis with 2-year-old saplings. Shrub replacement shall be on a 2 to 1 basis with stem cuttings.

12. Trees and shrubs shall be replaced by the same species or similar species suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service.

13. Landowners 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 those replacement trees/shrubs to be planted at alternative locations.

14. At the conclusion of the project, documentation identifying the actual number, variety, type, location, and date of the replacement plantings shall be filed with the Commission.

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).

**PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA**

Certificate of Site Compatibility for Energy Conversion Facility

Certificate Number 12

This is to certify that the Commission has designated an energy conversion facility site for Rough Rider Wind I, LLC, consisting of 116 1.5 MW wind turbines, collection substation, and associated facilities in Dickey County, North Dakota.

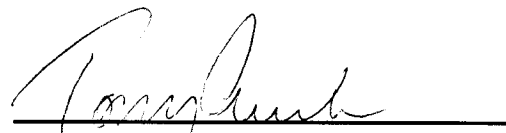
The facility may be sited in this designated location in compliance with the energy conversion facility siting criteria. This certificate is issued in accordance with the Finding of Fact, Conclusion of Law and Order of the Commission in Case No. PU-09-84 dated August 12, 2009, and is subject to the conditions and limitations noted in the order.

Bismarck, North Dakota, August 12, 2009.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner