

February 20, 2009

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FEB 20 2009

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

**PUBLIC SERVICE COMMISSION**

**RE: JOINT APPLICATION OF M POWER,  
LLC AND OTTER TAIL  
CORPORATION D/B/A OTTER TAIL  
POWER COMPANY FOR THE  
TRANSFER OF CERTIFICATE OF  
SITE COMPATIBILITY FOR A  
TRANSMISSION FACILITY**

**JOINT APPLICATION OF M POWER,  
LLC AND OTTER TAIL  
CORPORATION D/B/A OTTER TAIL  
POWER COMPANY FOR THE  
TRANSFER OF CERTIFICATE OF  
SITE COMPATIBILITY FOR ENERGY  
CONVERSION FACILITY**

Dear Mr. Nitschke:

Please find enclosed herewith for filing an original and ten copies of the following:

- 1 JOINT APPLICATION OF M-POWER, LLC AND OTTER TAIL CORPORATION D/B/A OTTER TAIL POWER COMPANY FOR THE TRANSFER OF CERTIFICATE OF SITE COMPATIBILITY FOR A TRANSMISSION FACILITY CORRIDOR NO. 106 AND ROUTE PERMIT NO. 116 TO OTTER TAIL CORPORATION D/B/A OTTER TAIL POWER COMPANY; and

1 **PU-09-136** Filed: 2/20/2009 Pages: 14  
**Joint Application to Transfer Corridor Certificate &  
Route Permit**

M-Power, LLC

Fredrickson&Byron,P.A., Lawrence Bender

Attorneys & Advisors / Fredrikson & Byron, P.A.  
main 701.  
fax 701.2  
www.fredl

1

**PU-09-73** Filed: 2/20/2009 Pages: 14  
**Joint Application for Transfer of Certificate of Site  
Compatibility**

M-Power, LLC

Fredrickson&Byron,PA Lawrence Bender

WORLD SERVICES  
Professional Service F

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- 2 JOINT APPLICATION OF M-POWER, LLC AND OTTER TAIL CORPORATION D/B/A OTTER TAIL POWER COMPANY FOR THE TRANSFER OF CERTIFICATE OF SITE COMPATIBILITY FOR ENERGY CONVERSION FACILITY NO. 9 TO OTTER TAIL CORPORATION D/B/A OTTER TAIL POWER COMPANY;
- 3 Certificate of Good Standing of M-Power, LLC in support of the two aforementioned applications; and
- 4 Certificate of Good Standing of Otter Tail Corporation in support of the two aforementioned applications.

Also enclosed is a disk containing the same.

Should you have any questions, please advise.

Sincerely,



LAWRENCE BENDER

LB/leo

Enclosure

cc: Mr. Warren Enyart – (w/o enc.)  
Mr. Lloyd Anderson – (w/o enc.)  
Ms. Jennifer Smestad – (w/o enc.)

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

Case No. PU-09-\_\_\_\_\_

IN THE MATTER OF THE JOINT APPLICATION OF M-POWER, LLC AND OTTER TAIL CORPORATION D/B/A OTTER TAIL POWER COMPANY FOR THE TRANSFER OF CERTIFICATE OF SITE COMPATIBILITY FOR A TRANSMISSION FACILITY CORRIDOR NO. 106 AND ROUTE PERMIT NO. 116 TO OTTER TAIL CORPORATION D/B/A OTTER TAIL POWER COMPANY.

**JOINT APPLICATION OF M-POWER, LLC AND OTTER TAIL CORPORATION  
D/B/A OTTER TAIL POWER COMPANY FOR THE TRANSFER OF CERTIFICATE  
OF SITE COMPATIBILITY FOR A TRANSMISSION FACILITY CORRIDOR NO. 106  
AND ROUTE PERMIT NO. 116 TO OTTER TAIL CORPORATION D/B/A OTTER  
TAIL POWER COMPANY**

Pursuant to N.D.C.C. § 49-22, N.D.A.C. § 69-06, and N.D.A.C. § 69-02-02-04, M-Power, LLC, a North Dakota limited liability company (hereinafter “M-Power”), and Otter Tail Corporation d/b/a Otter Tail Power Company, a Minnesota corporation (hereinafter “Otter Tail”), respectfully submit this Joint Application (this “Application”) for the Transfer of Certificate of Site Compatibility for a Transmission Facility Corridor No. 106 (the “Corridor Certificate”) and Route Permit No. 116 (the “Route Permit”) to Otter Tail. The Corridor Certificate and Route Permit were originally issued by the Public Service Commission of the State of North Dakota (the “Commission”) to M-Power in Case No. PU-08-107. M-Power and Otter Tail are together referred to in this Application as the “Applicants.”

**A. Statutory Authority**

1. Transfer of a corridor certificate and route permit are authorized under N.D.C.C. §49-22-13(2) and N.D.A.C. § 69-06-01-02(3). Pursuant to these provisions, the Commission is

not required to hold a public hearing on an application for such transfer unless, following publication of a notice of opportunity for a public hearing in the official newspaper of each county in which a portion of the facility is located, there is both a request by an interested person and a showing of good cause.

## **B. Background**

1. Pursuant to the Findings of Fact, Conclusions of Law, and Order dated October 30, 2008, the Commission in Case No. PU-08-107 approved the issuance of the Corridor Certificate and Route Permit to M-Power for the construction of approximately 13 miles of 230,000 volt (230 kV) electric transmission line (the "Transmission Line"), collectively referred to as the Luverne Wind Farm Generation Outlet in Steele and Barnes Counties, North Dakota.

## **C. Application for Transfer of Corridor Certificate and Route Permit**

Applicants now respectfully submit this Application for the transfer of the Corridor Certificate and Route Permit to Otter Tail. In support thereof, Applicants state as follows:

1. M-Power is a limited liability company duly organized and authorized to do business in the State of North Dakota. Pursuant to N.D.A.C. § 69-02-02-04(3)(c), the articles of incorporation of M-Power have already been filed with the Commission in Case No. PU-08-107. Otter Tail is a corporation duly organized in the State of Minnesota and duly authorized to conduct business in the State of North Dakota. Pursuant to N.D.A.C. § 69-02-02-04(3)(c), the articles of incorporation of Otter Tail have already been filed with the Commission in Case No. PU-08-766.

2. The Corridor Certificate and Route Permit were issued to M-Power in connection with its proposed Luverne Wind Farm (the "Project") to be located in Griggs and Steele Counties, north of the city of Luverne (Case No. PU-08-34).

3. M-Power and Otter Tail executed a Purchase and Sale Agreement, dated July 29, 2008 (the "PSA"), pursuant to which Otter Tail purchased all of M-Power's interest in the Transmission Line and related assets as well as a portion of the Project. Otter Tail will construct and own the Transmission Line along with a portion of the Project. M-Power and Otter Tail closed on the PSA on February 6, 2009.

4. On September 12, 2008, Otter Tail filed an application for a certificate of public convenience and necessity to construct and own the Transmission Line along with a portion of the Project (Case No. PU-08-766). On December 3, 2008, the Commission issued an order granting Otter Tail Certificate of Public Convenience and Necessity No. 5385.

5. Pursuant to this Application, Applicants seek the transfer of the Corridor Certificate and Route Permit to Otter Tail.

WHEREFORE, Applicants respectfully request that the Commission, following publication of a notice of opportunity for a public hearing in the official newspapers in Steele and Barnes Counties and, unless there is both a request by an interested person and a showing of good cause:

1. Grant, without a public hearing, a transfer of the Corridor Certificate and Route Permit to Otter Tail; and
2. Grant such other relief as the Commission shall deem appropriate.

Dated this 20 day of February, 2009.

*[Signature and Acknowledgement Pages Follow]*





**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

Case No. PU-09-\_\_\_\_\_

IN THE MATTER OF THE JOINT APPLICATION OF M-POWER, LLC AND OTTER TAIL CORPORATION D/B/A OTTER TAIL POWER COMPANY FOR THE TRANSFER OF CERTIFICATE OF SITE COMPATIBILITY FOR ENERGY CONVERSION FACILITY NO. 9 TO OTTER TAIL CORPORATION D/B/A OTTER TAIL POWER COMPANY.

**JOINT APPLICATION OF M-POWER, LLC AND OTTER TAIL CORPORATION  
D/B/A OTTER TAIL POWER COMPANY FOR THE TRANSFER OF CERTIFICATE  
OF SITE COMPATIBILITY FOR ENERGY CONVERSION FACILITY NO. 9 TO  
OTTER TAIL CORPORATION D/B/A OTTER TAIL POWER COMPANY**

Pursuant to N.D.C.C. § 49-22, N.D.A.C. § 69-06, and N.D.A.C. § 69-02-02-04, M-Power, LLC, a North Dakota limited liability company (hereinafter “M-Power”), and Otter Tail Corporation d/b/a Otter Tail Power Company, a Minnesota corporation (hereinafter “Otter Tail”), respectfully submit this Joint Application (this “Application”) for the Transfer of Certificate of Site Compatibility for Energy Conversion Facility No. 9 (the “Certificate”) to Otter Tail. The Certificate was originally issued by the Public Service Commission of the State of North Dakota (the “Commission”) to M-Power in Case No. PU-08-34. M-Power and Otter Tail are together referred to in this Application as the “Applicants.”

**A. Statutory Authority**

1. Transfer of a site compatibility certificate is authorized under N.D.C.C. §49-22-13(2) and N.D.A.C. § 69-06-01-02(3). Pursuant to these provisions, the Commission is not required to hold a public hearing on an application for such transfer unless, following publication of a notice of opportunity for a public hearing in the official newspaper of each county in which

a portion of the facility is located, there is both a request by an interested person and a showing of good cause.

## **B. Background**

1. Pursuant to the Findings of Fact, Conclusions of Law, and Order dated October 30, 2008, the Commission in Case No. PU-08-34 approved the issuance of the Certificate to M-Power for the construction of a wind energy facility, referred to as the Luverne Wind Farm, located in Griggs and Steele Counties, North Dakota (the "Project").

## **C. Application for Transfer of Corridor Certificate and Route Permit**

Applicants now respectfully submit this Application for the transfer of the Certificate to Otter Tail. In support thereof, Applicants state as follows:

1. M-Power is a limited liability company duly organized and authorized to do business in the State of North Dakota. Pursuant to N.D.A.C. § 69-02-02-04(3)(c), the articles of incorporation of M-Power have already been filed with the Commission in Case No. PU-08-107. Otter Tail is a corporation duly organized in the State of Minnesota and duly authorized to conduct business in the State of North Dakota. Pursuant to N.D.A.C. § 69-02-02-04(3)(c), the articles of incorporation of Otter Tail have already been filed with the Commission in Case No. PU-08-766.

2. The Certificate was issued to M-Power in connection with the Project, to be located in Griggs and Steele Counties, north of the city of Luverne (Case No. PU-08-34). The Project will consist of two separate phases. Phase I will include up to 72 turbines to generate up to 108 MW of power in the southern portion of the proposed project area. Phase II will include up to 33 turbines to generate up to 49.5 MW of power in the northern portion of the proposed project area ("Phase II").

3. M-Power and Otter Tail executed a Purchase and Sale Agreement, dated July 29, 2008 (the "PSA"), pursuant to which Otter Tail purchased all of M-Power's interest in Phase II of the Project. Otter Tail will construct and own Phase II. M-Power and Otter Tail closed on the PSA on February 6, 2009.

4. On September 4, 2008, Otter Tail filed an application for a certificate of public convenience and necessity to construct and own Phase II (Case No. PU-08-766). On December 3, 2008, the Commission issued an order granting Otter Tail Certificate of Public Convenience and Necessity No. 5385.

5. Pursuant to this Application, Applicants seek the transfer of the Certificate to Otter Tail.

WHEREFORE, Applicants respectfully request that the Commission, following publication of a notice of opportunity for a public hearing in the official newspapers in Griggs and Steele Counties and, unless there is both a request by an interested person and a showing of good cause:

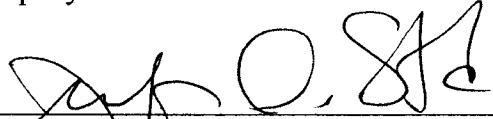
1. Grant, without a public hearing, a transfer of the Certificate to Otter Tail; and
2. Grant such other relief as the Commission shall deem appropriate.

Dated this 20 day of February, 2009.

*[Signature and Acknowledgement Pages Follow]*



Otter Tail Corporation d/b/a Otter Tail Power Company

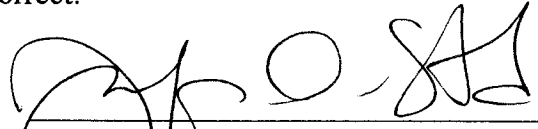
By 

JENNIFER O. SMESTAD  
Associate General Counsel  
Otter Tail Corporation  
215 S. Cascade Street  
Fergus Falls, MN 56538-0496  
(218) 739-8209

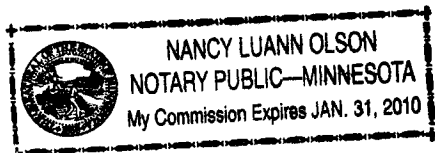
STATE OF MINNESOTA        )  
  ) ss.  
COUNTY OF OTTER TAIL    )

JENNIFER O. SMESTAD, of lawful age, being first duly sworn, on oath deposes and says:

That she is the duly elected and qualified attorney for Applicant, Otter Tail Corporation d/b/a Otter Tail Power Company, in the foregoing application; that she executed the foregoing application for and on behalf of said Applicant and as its said attorney that she has read said application and knows the contents thereof, and that the statements made and contained therein are, to the best of her knowledge and belief, true and correct.

  
JENNIFER O. SMESTAD

Subscribed and sworn to before me this 5<sup>th</sup> day of February, 2009.



Nancy LuAnn Olson  
Notary Public  
Otter Tail County, Minnesota  
My Commission Expires: 1-31-2010

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# *State of North Dakota*

## SECRETARY OF STATE



### CERTIFICATE OF GOOD STANDING OF

M-POWER, LLC

The undersigned, as Secretary of State of the State of North Dakota, hereby certifies that M-POWER, LLC, a North Dakota LIMITED LIABILITY COMPANY, was issued a certificate of organization which was effective on September 22, 2006 and, according to the records of this office as of this date, has paid all fees due this office as required by North Dakota statutes governing a North Dakota LIMITED LIABILITY COMPANY.

ACCORDINGLY the undersigned, as such Secretary of State, and by virtue of the authority vested in him by law, hereby issues this Certificate of Good Standing to

M-POWER, LLC

Issued: February 20, 2009

A handwritten signature in cursive script, reading "Alvin Jaeger".

Alvin Jaeger  
Secretary of State

# *State of North Dakota*

## SECRETARY OF STATE



### CERTIFICATE OF GOOD STANDING OF

OTTER TAIL CORPORATION

The undersigned, as Secretary of State of the State of North Dakota, hereby certifies that OTTER TAIL CORPORATION, a Minnesota corporation, authorized to transact business in the State of North Dakota on February 24, 1914, and according to the records of this office as of this date, has paid all fees due this office as required by North Dakota statutes governing foreign corporations.

**ACCORDINGLY** the undersigned, as such Secretary of State, and by virtue of the authority vested in him by law, hereby issues this Certificate of Good Standing to

OTTER TAIL CORPORATION

Issued: February 20, 2009

A handwritten signature in cursive script, reading "Alvin A. Jaeger".

Alvin A. Jaeger  
Secretary of State