



# Public Service Commission

## State of North Dakota

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31 December 2009

Ryan McGraw  
General Counsel  
15850P Jess Ranch Road  
Tracy, California 95377

Re: North Dakota Winds, LLC., Request for Jurisdictional Determination  
99 MW Radiance Wind Farm  
PSC Case No. PU-09-680

Dear Mr. McGraw:

Thank you for your letter of 5 October 2009 requesting a jurisdictional determination for the planned North Dakota Winds 99 MW Radiance Wind Farm. In your letter you ask two questions:

1. Is a Certificate of Site Compatibility required under N.D.C.C. Chapter 49-22 for the construction of North Dakota Winds, LLC's 99 MW Radiance Wind Farm, given that a conditional use permit was issued by the township board of supervisors prior to 1 August 2009?

2. If the Radiance Wind Farm is divided into two projects less than or equal to 60 MW each that continue to utilize the same transmission line, is the requirement for siting authorization under N.D.C.C. Chapter 49-22 avoided?

The Commission discussed your letter and questions at the Commission's regular Administrative Matters meeting on 10 December 2009. The Commission asked me to respond to you with the results of that discussion. Please understand that any request for a jurisdictional determination is decided on a case by case basis, on the facts provided to the Commission in the request.

Regarding question (1), the Commission concludes that the receipt by North Dakota Winds, LLC of a Conditional Use Permit from the township prior to 1 August 2009, the effective date of recent legislation lowering the jurisdictional threshold, **does not exempt North Dakota Winds, LLC from the need to obtain a siting permit**. It is the conclusion of the Commission that North Dakota Winds must obtain authority under the Siting Act, N.D.C.C. Chapter 49-22, for its Radiance Wind Farm.

2      **PU-09-680**      Filed: 12/31/2009      Pages: 2  
**Letter Responding to Request for Jurisdictional  
Determination**

Public Service Commission

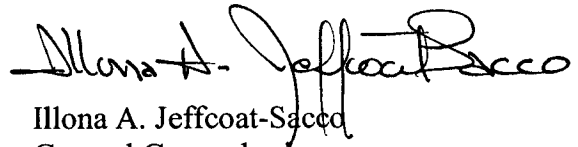
Illona A. Jeffcoat-Sacco

Ryan McGraw  
31 December 2009  
Page 2

Regarding question (2), it appears from the information you provided that the project was intended to be one project at 99 MW and that the option of splitting it into two projects, each sized at less than 60 MW, is proposed solely for the purpose of avoiding the need to obtain siting authorization under N.D.C.C. Chapter 49-22. In addition, you indicate that both locations would use the same interconnection network. Under these circumstances, the Commission concludes that the project is one project, not two, of a size greater than the statutory threshold. Consequently, **North Dakota Winds, LLC's planned 99 MW Radiance Wind Farm requires siting authority under N.D.C.C. Chapter 49-22.**

If you have any questions, please do not hesitate to call or write.

Best regards,



Illona A. Jeffcoat-Sacco  
General Counsel