

Casey A. Furey
100 West Broadway, Suite 250
P.O. Box 2798
Bismarck, ND 58502-2798
701.223.6585
cfurey@crowleyfleck.com

July 21, 2020

Via Electronic Mail

Mr. Patrick Fahn
Public Utility Director
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480
pfahn@nd.gov
ndpsc@nd.gov

In re: FPL Energy North Dakota Wind II, LLC
North Dakota Wind II Energy Center
Response to Notice of Non-Compliance
Case No. PU-10-106
Our File No. 035218-000023

Dear Mr. Fahn:

FPL Energy North Dakota Wind II, LLC (“North Dakota Wind II”) is in receipt of the Notice of Non-Compliance dated July 14, 2020 in the above-referenced proceeding (“Notice”), related to the requirement in North Dakota Administrative Code (“N.D. Admin. Code”) § 69-09-09-03 for the “owner” of a commercial wind energy conversion facility to “annually file a certificate of operation with the commission for that facility by April first of each year.” North Dakota Wind II respectfully submits that it is not in non-compliance with the requirement in N.D. Admin. Code § 69-09-09-03, for the reasons described below. Nevertheless, and to address any question that the Commission or Staff may have regarding the operational status of this facility, enclosed is North Dakota Wind II’s certificate of operation for calendar year 2019.

As described in the Notice, the definition of an “owner” that is required to submit a certificate of operation pursuant to this requirement is defined in N.D. Admin. Code § 69-09-09-01(9) as:

“Owner” means a person who holds a certificate of site compatibility pursuant to North Dakota Century Code chapter 49-22, or if no certificate was issued, a person who owns a facility or part of a facility.

The underlined language included in this definition was recently added to § 69-09-09-01(9), in Case No. PU-19-291, which amendment was effective July 1, 2020. Therefore, prior to July 1,

2020, the “owner” of a facility that was required to file a certificate of operation was defined only to include “a person who holds a certificate of site compatibility pursuant to North Dakota Century Code chapter 49-22.”

North Dakota Wind II owns the North Dakota Wind II Energy Center in LaMoure County, North Dakota. This wind facility did not previously receive a certificate of site compatibility under North Dakota Century Code (“NDCC”) chapter 49-22. Thus, at the time that the annual certificate of operations filings for 2019 were due on April 1, 2020, the requirement to submit such certificate did not apply to North Dakota Wind II. Furthermore, the July 1 amendment is not retroactive in nature and does not require North Dakota Wind II to submit filings for periods of time in which it was not otherwise subject to the provisions of N.D. Admin. Code Ch. 69-09-09. Accordingly, North Dakota Wind II submits that it is not out of compliance with the requirements in N.D. Admin. Code § 69-09-09-03.

However, in order to address any questions that the Commission or Staff may have regarding its operations, North Dakota Wind II provides the attached certificate of operation for calendar year 2019. North Dakota Wind II is available to provide any further information that the Commission or Staff may require. Please do not hesitate to contact me with any additional questions.

Sincerely,



Casey A. Furey

Encl.

cc: Tracy Davis (via email)
Brian Johnson (via email)
Patrick Fahn (via email)
Adam Renfandt (via email)

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**FPL Energy North Dakota Wind II, LLC
FPL Energy North Dakota Wind II Energy Center – LaMoure County**

PU-10-106

**CERTIFICATE OF OPERATION PURSUANT TO
NORTH DAKOTA ADMINISTRATIVE CODE SECTION 69-09-09-03**

STATE OF FLORIDA)
) ss.
COUNTY OF PALM BEACH)

Pursuant to N.D. Admin. Code § 69-09-09-03, the undersigned, Terrell K. Crews II, President, a representative of FPL Energy North Dakota Wind II, LLC, hereby states as follows:

1. I am a person of legal age, legally competent, and have personal knowledge of the facts stated herein.

2. Pursuant to N.D. Admin Code § 69-09-09-01(2), the following information is provided for the North Dakota Wind Energy II Center for the 2019 calendar year:

- a. Nameplate generating capacity: 21 MW
- b. Annual capacity factor: 25.1%
- c. Annual megawatt hour output: 47,246
- d. Monthly megawatt hour output:

Month	Generation
January	3,835.00
February	3,041.00
March	4,402.00
April	4,720.00
May	4,463.00
June	3,123.00
July	2,904.00
August	3,531.00
September	4,415.00
October	5,327.00
November	3,649.00
December	3,835.00

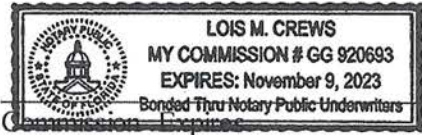
Dated this 11th day of July 2020.

Terrell K. Crews II

Terrell K. Crews II
President
FPL Energy North Dakota Wind II, LLC

STATE OF FLORIDA)
) ss.
COUNTY OF PALM BEACH)

On this 31st day of July 2020, before me personally appeared Terrell K. Crews II, known to me to be a representative of FPL Energy North Dakota Wind II, LLC, that is described within and executed, and acknowledged to me that such limited liability company executed the same.



Lois M. Crews
Notary Public