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ATTORNEYS

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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, LLC
North Dakota Wind Energy Center
Response to Notice of Non-Compliance
Case No. PU-10-107
Our File No. 035218-000023

Dear Mr. Fahn:

FPL Energy North Dakota Wind, LLC ("North Dakota Wind") 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 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'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, <u>or if no certificate was issued, a person who owns a facility or part of a facility</u>.

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,

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FPL Energy North Dakota Wind, LLC
Casey Furey, Crowley Fleck, PLP

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 owns the North Dakota Wind 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. Furthermore, the July 1 amendment is not retroactive in nature and does not require North Dakota Wind 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 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 provides the attached certificate of operation for calendar year 2019. North Dakota Wind 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, LLC **PU-10-107**
FPL Energy North Dakota Wind Energy Center – LaMoure County

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, 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 Center for the 2019 calendar year:

a. Nameplate generating capacity: 40.5 MW
b. Annual capacity factor: 38.2%
c. Annual megawatt hour output: 135,510
d. Monthly megawatt hour output:

Month	Generation
January	12,231
February	10,127
March	14,165
April	13,253
May	11,980
June	8,082
July	7,087
August	8,478
September	12,051
October	16,204
November	10,367
December	11,484

Dated this 21st day of July 2020.

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

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

On this 21st 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, LLC, that is described within and executed, and acknowledged to me that such limited liability company executed the same.

LOIS M. CREWS
MY COMMISSION # GG 920693
EXPIRES: November 9, 2023
Bonded Thru Notary Public Underwriters

Commission Expires

Notary Public