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July 24, 2020

Via Electronic Mail

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

In re: Velva Windfarm, LLC
Notice of Noncompliance
Case No. PU-10-109
Our File No. 010268-000001

Dear Mr. Fahn:

I am writing in response to your Notice of Noncompliance (“Notice”) dated July 14, 2020 in PU-10-109 regarding Velva Windfarm, LLC (“Velva”). The Notice asserts that Velva is in noncompliance with N.D. Admin. Code § 69-09-09-03(1) because a 2019 Certificate of Operation was not filed with the Commission by April 1, 2020. As explained below, as of April 1, 2020, Velva was not subject to the requirements of North Dakota Administrative Code Chapter 69-09-09 and is not in noncompliance with the provisions therein.

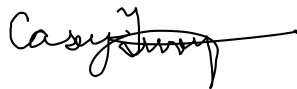
Section 69-09-09-03(1) requires that “[a]fter construction of a facility is complete, the owner shall annually file a certificate of operation with the commission for that facility by April first of each year.” As of April 1, 2020, wind energy conversion facilities such as Velva that do not possess a certificate of site compatibility were not included in the definition of an “owner” for purposes of regulations set forth in North Dakota Administrative Code Chapter 69-09-09 governing

decommissioning. Specifically, as of April 1, an “owner” was defined as a “person who holds a certificate of site compatibility pursuant to North Dakota Century Code chapter 49-22.” The definition of an “owner” subject to the provisions of Chapter 69-09-09 was only recently amended effective July 1, 2020 to include facilities that do not possess a certificate of site compatibility.

Therefore, as of April 1 Velva was not subject to the provisions of § 69-09-09-03(1) requiring a 2019 Certificate of Operation to be filed with the Commission by April 1, 2020. Furthermore, the recent amendment to the definition of an “owner” is not retroactive and does not require Velva to submit filings for periods in which it was not subject to the requirements of N.D. Admin. Code Ch. 69-09-09. For these reasons, Velva strongly disagrees with alleged noncompliance outlined in the Notice. However, in consideration of Commission staff’s interest in obtaining information pertaining to Velva’s 2019 operations, Velva has enclosed a 2019 Certificate of Operation.

Please feel free to contact me with any questions. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Casey A. Furey", with a long horizontal flourish extending to the right.

Casey A. Furey

Encl.

cc: Emilie Beavers
Adam Renfandt
Brian Johnson

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Velva Windfarm, LLC

PU-10-109

CERTIFICATE OF OPERATION
N.D. Admin. Code § 69-09-09-03

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

I, Rafael Esteban Fernández de Córdoba, a representative of Velva Windfarm, LLC, (Velva) with authority to bind Velva to the following, hereby file this Certificate of Operation pursuant to N.D. Admin. Code § 69-09-09-03, and state 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 Velva Wind Farm for the 2019 calendar year:
 - a. Nameplate generating capacity: 11.88
 - b. Annual capacity factor: 26.4%
 - c. Annual megawatt hour output: 27,790
 - d. Monthly megawatt hour output:

January: 2,666	July: 1,378
February: 1,675	August: 1,862
March: 3,135	September: 2,089
April: 2,661	October: 3,690
May: 2,009	November: 2,488
June: 1,822	December: 2,315

Dated this 22 day of July 2020.



Rafael Esteban Fernández de Córdoba
President & CEO
Velva Windfarm, LLC

