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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 Oliver Wind II, LLC  
Oliver II Wind Energy Center  
Response to Notice of Non-Compliance  
Case No. PU-10-110  
Our File No. 035218-000023

Dear Mr. Fahn:

FPL Energy Oliver Wind II, LLC (“Oliver 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.” Oliver 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 Oliver 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.

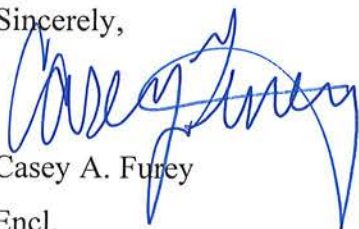
The underlined language included in this definition was recently added to § 69-09-09-01(9), in Case No. PU-19-291, which amendment was effective July 1, 2020. Therefore, prior to July 1,

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.”

Oliver Wind II owns the Oliver II Wind Energy Center in Oliver 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 Oliver Wind II. Furthermore, the July 1 amendment is not retroactive in nature and does not require Oliver 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, Oliver 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, Oliver Wind II provides the attached certificate of operation for calendar year 2019. Oliver 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 Oliver Wind II, LLC  
FPL Energy Oliver Wind II Energy Center – Oliver County**

**PU-10-110**

**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 Oliver Wind II, LLC, hereby states as follows:

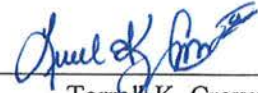
1. I am a person of legal age, legally competent, and have personal knowledge of the facts stated herein.

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

- a. Nameplate generating capacity: 48 MW
- b. Annual capacity factor: 34.9%
- c. Annual megawatt hour output: 146,841
- d. Monthly megawatt hour output:

Month	Generation
January	15,647
February	10,888
March	16,227
April	12,280
May	10,836
June	8,553
July	7,323
August	9,451
September	11,741
October	18,209
November	12,920
December	12,764

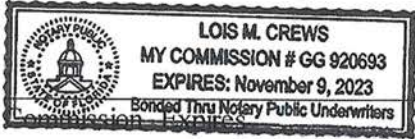
Dated this 21<sup>st</sup> day of July 2020.



Terrell K. Crews II  
President  
FPL Energy Oliver Wind II, LLC

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

On this 21<sup>st</sup> day of July 2020, before me personally appeared Terrell K. Crews II, known to me to be a representative of FPL Energy Oliver Wind II, LLC, that is described within and executed, and acknowledged to me that such limited liability company executed the same.



Notary Public