



Public Service Commission

State of North Dakota

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September 18, 2015

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FPL Energy
Attn: Nicole Daggs, Senior Director, Business Management – Midwest Region
700 Universe Blvd.
Juno Beach, FL 33408

**RE: Case Nos. PU-05-205, PU-06-312, PU-07-722, PU-09-668 and PU-10-147
Compliance Issues**

PU-05-205

In reviewing FPL Energy Burleigh County Wind, LLC's 230kV Transmission Line –Burleigh County Siting Application, Case No. PU-05-205, the North Dakota Public Service Commission finds that the Company has not complied with the tree and shrub mitigation required. In the post inspection report issued on October 25, 2011 it states that the Company has not submitted a third year report as required by Order Point 17. The Commission requires that at the end of the three year reporting period, the Company must have a 75 percent survival rate.

The Commission requests that FPL Energy Burleigh County Wind, LLC provide an update as to whether or not at the end of 2009 the Company experienced a 75 percent survival rate and if not, the Commission requests that the Company report as to the additional efforts the Company has undertaken to meet this requirement.

The third party inspection report can be found at:

<http://www.psc.nd.gov/database/documents/05-0205/183-010.pdf>

The Commission's order can be found at:

<http://www.psc.nd.gov/database/documents/05-0205/058-001.pdf>

PU-06-312

In reviewing FPL Energy Oliver Wind, LLC's 230kV Transmission Line –Oliver County Siting Application, Case No. PU-06-312, the North Dakota Public Service Commission finds that the Company has not complied with the tree and shrub mitigation required. In Tetra Tech's 2014 report, it states that additional plantings were done in 2012. The Commission requires that at the end of a three year

reporting period, the Company must have a 75 percent survival rate. As a result, the Company is still required to submit one additional year of reporting.

Therefore, the Commission requests that FPL Energy Oliver Wind, LLC provide an update as to whether or not at the end of 2015 the Company experienced a 75 percent survival rate and if not, the Commission requests that the Company report as to the additional efforts the Company has undertaken to meet this requirement.

The Tetra Tech report can be found at:

<http://www.psc.nd.gov/database/documents/06-0312/100-010.pdf>

PU-07-766

Lastly, in reviewing Case No. PU-07-766, the Commission finds no record of tree and shrub mitigation efforts. While we do see such reports for Langdon Phase 1, we have no records for the Langdon expansion project.

PU-09-668

On April 11, 2014, the Company submitted a response to the Commission's request for information in regards to concerns noted in the third party inspection of the project. At this time, the Commission requests further information on the following:

- Order Point 16 states: "Reclamation, fertilization and reseeding shall be completed by Baldwin Wind according to the Natural Resource Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission". Please confirm that this has occurred.
- Order Point 32 states: "Baldwin Wind shall work with landowners and residents in the area to mitigate any adverse effects that results from the construction of the energy conversion facility."

Finding of Fact 37 states: "While though there are no established standards, the siting recommendation of the American Wind Energy Association for allowable shadow flicker is 30-40 hours per year. There are currently three occupied residences that exceed 30 hours per year and Baldwin Wind is working cooperatively with these owners to secure participation agreements. If such agreements cannot be secured, Baldwin Wind will utilize alternative turbine locations to avoid shadow impacts on these three residences. Should shadow flicker occur and result in complaints from occupants of residences, Baldwin Wind, at its expense, will work with the owner to promptly undertake measures, such as tree planting or installation of awnings to mitigate shadow flicker.

Finding of Fact 38 states: "No turbines will be placed within 1400 feet of an occupied residence. The average noise levels at such residences should not exceed 48.6 decibels."

Please confirm that the Project is in compliance with these mitigation requirements.

Lastly, the Tree and Shrub Mitigation Specifications Point 15 states: "If after three years from the anniversary of the plantings the survival rate is less than 75%, the Commission may order additional planting(s)." Because additional plantings occurred in 2013 and 2014, the Company will not have met the specifications until 2017 unless the Company can confirm a 75 percent survival rate based on the 2011 and 2013 survival rates in 2016

PU-10-147

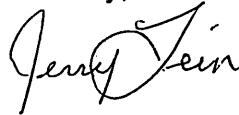
On April 11, 2014, the Company submitted a response to the Commission's request for information in regards to concerns noted in the third party inspection of the project. At this time, the Commission requests further information on the following:

- Order Point 14 states: "Reclamation, fertilization and reseeding will be completed by Ashtabula III according to the Natural Resource Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission". Please confirm that this has occurred.

Please forward your responses other than tree and shrub requirements for future years within 30 days.

If you have any questions regarding this letter, please contact me at 701-328-1035.

Sincerely,



Jerry Lein
Public Utility Analyst