

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Oliver Wind III, LLC
48 MW Wind Energy Center-Morton County
Siting Application**

Case No. PU-11-561

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER AMENDING CERTIFICATE**

NOVEMBER 28, 2012

Appearances

Commissioners Brian P. Kalk, Kevin Cramer and Bonnie M. Fetch.

Brian R. Bjella, Attorney at Law, Crowley Fleck, PLLP, 400 East Broadway, Suite 600, Bismarck, North Dakota 58501, on behalf of the Applicant, Oliver Wind III, LLC.

Mark Gruman, Legal Counsel, Public Service Commission, State Capitol, Bismarck, North Dakota 58505, on behalf of the Public Service Commission.

Preliminary Statement

On March 21, 2012, the Commission adopted the Findings of Fact, Conclusions of Law and Order issuing Certificate of Site Compatibility for a Energy Conversion Facility, Certificate No. 27, to Oliver Wind III, LLC (Oliver Wind III) authorizing construction of the Oliver III Energy Center consisting of up to 30 1.6 MW wind turbine generators and associated facilities in Morton County, North Dakota.

On September 19, 2012, Oliver Wind III filed with the Commission an Application for an Amendment of Certificate of Site Compatibility for this project. The reason for the amendment was that Oliver Wind III desires to use a different wind turbine model for this project, being either 1.6 or 1.7 MW, both of which have a larger rotor diameter of 328 feet (100 meters) versus 271 feet (82.5 meters) for this project. This requires adjustments to the spacing of the turbines in order to meet manufacturer specifications and Morton County setback requirements.

On September 27, 2012, the Commission issued a Notice of Informal Hearing and Notice of Opportunity for Hearing scheduling an informal hearing for October 24, 2012, at 1:30 p.m. in the Commission Hearing Room on the 12th Floor of the State Capitol. The Notice provided that comments and requests for hearing must be received by November 6, 2012.

The Notice identified the following issues to be considered in Oliver Wind III's Application:

1. Will the location, construction, and operation of the proposed facilities produce minimal adverse effects upon the environment and upon the welfare of the citizens of North Dakota?
2. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?
3. Will the proposed facility locations minimize adverse human and environmental impacts while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

On October 22, 2012, Oliver Wind III filed an amendment to its Application, including updated exclusion and avoidance tables and an overall site plan.

On November 16, 2012, Oliver Wind III filed with the Commission updated noise and sound flicker data.

On October 24, 2012, the Commission held the informal hearing as scheduled. No comments or requests for hearing were received.

Having allowed all interested persons an opportunity to be heard, and having heard, reviewed and considered all testimony and evidence presented, the Commission makes the following:

Findings of Fact

1. The materials filed by Oliver Wind III in its September 19, 2012, Application state, and as was further confirmed at the informal hearing, that no exclusion or avoidance areas will be impacted by the requested turbine location changes.
2. The materials filed by Oliver Wind III, and as was further discussed at the informal hearing, indicate that a Class III cultural resources survey has been completed for the project, and that any sites with potential cultural significance have been avoided in designing the revised project layout. Oliver Wind III intends to have its report completed and submitted to the North Dakota State Historic Preservation Office (SHPO) by the end of November. SHPO concurrence that no historic properties are affected by the turbine locations is anticipated.
3. The turbine location changes are compatible with the environmental preservation and the efficient use of resources, and will produce minimal adverse effects on the environment, natural resources and upon the welfare of the citizens of North Dakota, while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.
4. With respect to the new turbine layout in comparison to what was previously approved by the Commission, five of the originally approved turbine

locations did not change, and one turbine was completely eliminated. The remaining turbines moved between 14 and 450 feet. While one turbine moved 244 feet closer to the nearest receptor, all other turbines moved less than 100 feet closer to the closest receptor or moved farther away.

5. With respect to shadow flicker, 18 of the receptor locations evaluated had no shadow flicker impacts; while 11 of the receptor locations evaluated would have less than 20 hours per year of predicted shadow flicker impact. Only one of the 31 receptors modeled had expected shadow flicker impacts predicted for more than 30 hours per year at 32 hours, 12 minutes, per year. This receptor is an occupied residence of a participating landowner.

6. With respect to the revised acoustic assessment, the project operational sound was calculated and compared to relevant environmental noise guidelines as established by the EPA and OSHA. Acoustic modeling analysis pursuant to ISO 9613-2 indicated only one potential exceedance of the EPA noise guideline at maximum rotational speed under anomalous meteorological conditions. This exceedance would occur at one receptor, which has been identified as an abandoned structure and a project participant. There are no exceedances at occupied receptors.

7. With respect to Commission and Morton County setback requirements, the setback requirements did increase based on increased turbine height, as 1.5 times the rotor diameter changed from 406 feet to 492 feet, and 1.25 times the total turbine height changed from 496 feet to 533 feet. The turbine locations comply with Commission and Morton County setback requirements.

From the foregoing Findings of Fact, the Commission now makes its:

Conclusions of Law

1. The Commission has jurisdiction over Oliver Wind III and over the subject matter of the Application under North Dakota Century Code Chapter 49-22.
2. The location, construction and operation of the proposed wind energy center will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.

From the foregoing Findings of Fact and Conclusions of Law, the Commission now makes its:

Order

The Commission orders:

1. Oliver Wind III's request for an amendment to the Certificate of Site Compatibility for Energy Conversion Facility, Certificate No. 27, is granted; and Oliver Wind III is issued First Amended Certificate of Site Compatibility for Energy Conversion Facility, Certificate No. 27, for the construction, operation,

and maintenance of a wind energy facility known as the Oliver Wind III Energy Center.

2. The authorizations granted by First Amended Certificate of Site Compatibility for Energy Conversion Facility, Certificate No. 27, are contingent upon receipt of SHPO concurrence that no historic properties are affected by the turbine location changes and Oliver Wind III shall file a copy with the Commission of SHPO's written concurrence prior to starting construction.

3. The authorizations granted by First Amended Certificate of Site Compatibility for Energy Conversion Facility, Certificate No. 27, are subject to modification by order of the Commission if deemed necessary to further protect the public or the environment.

4. The turbine location changes hereby approved are subject to the terms and conditions stated in the Findings of Fact, Conclusions of Law and Order dated March 21, 2012; and are further subject to the terms and conditions of this Order.

PUBLIC SERVICE COMMISSION

Absent

Kevin Cramer
Commissioner

B.P. Kalk

Brian P. Kalk
Chairman

Bonnie M. Fetch

Bonnie M. Fetch
Commissioner

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

Certificate of Site Compatibility for Energy Conversion Facility

First Amended Certificate Number 27

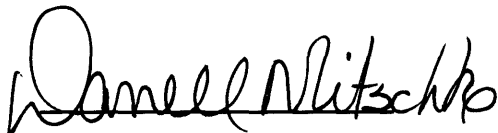
This is to certify that the Commission has designated an energy conversion facility site for Oliver Wind III, LLC's Oliver III Energy Center consisting of up to 30 wind turbine generators totaling up to approximately 51 MW of generating capacity and associated facilities in Morton County, North Dakota.

The facility may be sited in this designated location in compliance with the energy conversion facility siting criteria. This certificate is issued in accordance with the Findings of Fact, Conclusions of Law and Orders of the Commission in Case No. PU-11-561 dated March 21, 2012 and November 28, 2012 and is subject to the conditions and limitations noted in those orders.

Bismarck, North Dakota, November 28, 2012.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner