

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA**

In the Matter of the Application of Thunder
Spirit Wind, LLC for a Certificate of Site
Compatibility to Construct a Wind Energy
Facility in Adams County, North Dakota

Case No. PU-11-601

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER
DATED OCTOBER __, 2013**



Appearances: Commissioners Brian P. Kalk, Randy Christmann and Julie Fedorchak.

Wade C. Mann, Attorney at Law, Crowley Fleck PLLP, 400 East Broadway, Suite 600, Bismarck, North Dakota 58501, on behalf of the Applicant, Thunder Spirit Wind, LLC.

Zachary E. Pelham, Special Assistant Attorney General, Public Service Commission, 314 East Thayer Avenue, P.O. Box 400, Bismarck, North Dakota 58502-0400, on behalf of the Public Service Commission.

Allen C. Hoberg, Administrative Law Judge, Office of Administrative Hearings, 2911 North Fourteenth Street, Suite 303, Bismarck, North Dakota 58503, as Procedural Hearing Officer.

Preliminary Statement

On August 8, 2011, Thunder Spirit Wind, LLC (“Thunder Spirit”) filed a Letter of Intent (LOI) to submit an application for a Certificate of Site Compatibility for a wind energy conversion facility in Adams County, North Dakota. Thunder Spirit requested in its LOI that the Commission shorten the one-year waiting period between the filing of the LOI and the filing of an application.

On September 20, 2011, the Public Service Commission (Commission) shortened the one-year waiting period to five months, and assessed a filing fee of \$100,000.00.

On March 8, 2013, Thunder Spirit filed an Amended Letter of Intent (LOI) to submit an application for a Certificate of Site Compatibility for a wind energy conversion

facility in Adams County, North Dakota, amending the original Letter of Intent to reflect a later proposed construction and estimated completion date.

On March 27, 2013, the Commission acknowledged the Amended Letter of Intent.

On June 4, 2013, Thunder Spirit filed an Application for a Certificate of Site Compatibility authorizing construction of the Thunder Spirit Wind Energy Project consisting of wind turbine generators and associated facilities in Adams County, North Dakota (Application).

On June 19, 2013, the Commission deemed the Application complete and issued a Notice of Filing and Notice of Hearing, scheduling a public hearing for August 9, 2013, at 9:30 a.m. MDT, at the Adams County Courthouse, 602 Adams Avenue, Hettinger, North Dakota 58639. On August 6, 2013 the hearing scheduled for August 9, 2013 was cancelled.

On August 7, 2013, the Commission deemed the Application complete and issued a Notice of Filing and Notice of Rescheduled Hearing, rescheduling the public hearing for September 19, 2013, at 9:30 a.m. MDT, at the Adams County Courthouse, 602 Adams Avenue, Hettinger, North Dakota 58639. The Notice identified the following issues to be considered:

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 location minimize adverse human and environmental impacts while ensuring continuing system reliability and integrity and ensuring that energy needs are met and filled in an orderly and timely fashion?

On August 14, 2013, Thunder Spirit filed an executed Certification Relating to Order Provisions – Wind Energy Conversion Facility Siting and Tree and Shrub Mitigation Specifications.

On September 11, 2013, Thunder Spirit filed its final turbine site plan.

On September 19, 2013, the public hearing was held as scheduled.

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:

Findings of Fact

1. Thunder Spirit Wind, LLC is a Delaware limited liability company headquartered in Schenectady, New York and is registered to do business in the State of North Dakota.
2. Thunder Spirit Wind proposes to construct a wind energy facility (Thunder Spirit Wind Energy Project) to be located in Adams County, North Dakota, approximately 2 miles northeast of the City of Hettinger. The Original Project Area consists of approximately 26,867 acres (42 square miles). The wind turbines will be placed throughout the Project site.
3. Associated facilities to be constructed within the Project Area include access roads, electrical collection systems and cabling, a substation, a construction laydown area, and an approximately 0.85 mile overhead radial transmission line.

4. North Dakota Century Code § 49-22-16 provides that no energy conversion facility site shall be designated if it violates any county or city land use, zoning, building rules, regulations or ordinances. Adams County regulates zoning in the Project Area. Thunder Spirit has obtained a Wind Energy Facility Siting Permit from Adams County for the Thunder Spirit Wind Energy Project.

5. Thunder Spirit is in negotiations with a potential customer to purchase the power produced from the Thunder Spirit Wind Energy Project but no final power purchase agreement has been executed as of the date of the hearing.

Project Design

The Project will have a name plate (gross) generating capacity of up to 150 MW, consisting of either up to 75 x 2-MW turbines, 65 x 2.3-MW turbines, or 50 x 3.0-MW turbines, and associated facilities. Assuming certain net capacity factors, the projected average annual output is estimated at 676,710 MW hours per year.

6. Thunder Spirit Wind plans to use either Vestas V100 2.0 MW turbines, Siemens SWT 2.3-108 2.3 MW turbines or Acciona AW 116/3000 3.0 MW turbines. These are utility-grade wind turbines with a nominal name plate ratings ranging from 2.0 to 3.0 MW respectively. The turbines will have a hub height range of 80 to 92 meters (262-302 feet) and a rotor diameter range of 100 to 116 meters (328-380 feet). The turbines begin operation at wind speeds of 3.0 to 4.0 meters per second and reach their rated capacity at a wind speed range of 11 to 12 meters per second.

7. Each turbine is secured by a concrete foundation that can vary in design depending upon soil conditions. Turbine lighting is limited to warning lights required by the Federal Aviation Administration (FAA). A control panel inside the base of each

turbine tower houses communication and electronic circuitry. Each turbine is equipped with a wind speed and direction sensor that communicates with the turbine's control system to signal when sufficient winds are present for operation. Electricity generated by each turbine is brought to a pad-mounted transformer where the voltage is stepped up to a power collection line voltage of 34.5 kV. Electricity is collected by a series of underground collection lines.

8. The underground collection line feeder system will deliver the electricity to the project substation. At the substation, the voltage will be stepped up to 230 kV for transmission. The project substation will be connected to the MDU Hettinger 230 kV Substation.

9. The site for the wind energy facility was selected as an optimal site from an environmental, wind resource, transmission and economic perspective. Thunder Spirit utilized wind data from meteorological towers located on the project site in addition to securing and analyzing information from other long-term references to aid in correlating the wind data on site. The data indicates that this is an ideal site for a wind farm.

10. Construction of the Thunder Spirit Wind Energy Project is expected to take approximately six to nine months, at a total estimated cost of \$300,000,000.00.

11. Thunder Spirit anticipates that actual physical construction could start in late 2013 or 2014 depending on the status of power purchase agreements for the electricity to be generated.

12. An Engineering, Procurement, and Construction (EPC) contractor will be retained for construction management of the project. The EPC contractor will use services of local contractors, where possible, to assist in project construction.

13. Safety factors will be incorporated into the wind turbines. Each turbine will be equipped with a Supervisory Control and Data Acquisitions (SCADA) communication technology to control and monitor the turbines. In addition, each turbine is also equipped with a lightning protection system and is grounded and shielded to protect against lightning.

14. Construction and operation of the Thunder Spirit Wind Energy Project will conform to the requirements of the National Electric Safety Code.

Siting Criteria

15. North Dakota Administrative Code Chapter 69-06-08 sets forth certain criteria to guide the Commission in evaluating the suitability of granting an application for the certificate of site compatibility. The criteria set forth in North Dakota Administrative Code § 69-06-08-01 is classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria. With the exception of prime and unique farm land, an energy conversion facility must not be sited within an Exclusion Area. The exception for prime and unique farm land is if the Commission finds that the prime farm and unique farm land that will be removed from use for the life of the facility is of such small acreage as to be of negligible impact on agricultural production, then such exclusion shall not apply. An energy conversion facility must not be sited within an Avoidance Area unless the applicant shows that under the circumstances there is no reasonable alternative. In determining whether an Avoidance Area should be designated for a facility, the Commission may consider, among other things, the proposed management of adverse impacts; the orderly siting of facilities; system reliability and integrity; the efficient use of resources; and alternate sites. In accordance with the Commission's Selection Criteria,

an energy conversion facility shall be approved only if it is demonstrated that no significant adverse impacts will result from the location, construction, and operation of the facility. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits of the energy conversion facility.

16. The project layout indicates up to 3 acres of project infrastructure in prime farmland, not including the collection lines that will be buried and would be a temporary disturbance of soil. The Commission finds that the prime farmland to be disturbed by this energy conversion facility is of such small acreage as to be of negligible impact on agricultural production.

17. Approximately 92 acres of agricultural production could be impacted due to turbine placement, associated access roads, and project substation. Wind turbine configuration will not result in significant impacts to agricultural production. No impacts on the agricultural quality of the crop land are anticipated. If compaction of soils occurs during construction, Thunder Spirit Wind will work with landowners to alleviate the compaction.

18. One abandoned coal mine is found in the Project Area. Turbines have been microsited and prior to the start of construction, subsidence hazards related to the presence of abandoned underground coal mines will be mitigated by thorough field studies and geotechnical analyses.

19. Thunder Spirit Wind submitted evidence to demonstrate that the proposed energy conversion facility will not have a significant impact on the Selection Criteria set forth in North Dakota Administrative Code § 69-06-08-01(5).

20. Thunder Spirit Wind submitted evidence to demonstrate its commitment to maximize the benefits of the proposed energy conversion facility as far as is possible so as to meet the Policy Criteria set forth in North Dakota Administrative Code § 69-06-08-01(6).

21. No significant adverse impact is foreseen on the ability of the affected area to provide community services, such as housing, health care, schools, police and fire protection, water and sewer, solid waste management, transportation or public safety. The proposed project is expected to be of economic benefit to the affected area.

Cultural Resources

22. A Class I Literature Review, a Class II Historic Architecture Survey, and a Class III Cultural Resources Inventory were completed and the necessary information provided to the State Historical Society for review. The Class I Literature Review included identifying archaeological sites and surveys, and structures, bridges, and cemeteries within one mile of the Project layout. The Class II Historic Architecture Survey examined potential impacts to historic architecture within one mile of the nearest turbine. The Class III Cultural Resources Inventory included a pedestrian survey of the Area of Potential Effects (APE) which is basically a survey corridor established around the layout and included all facilities.

23. The Class I review was completed at the State Historical Society in June 2011 and updated on May 3, 2013. The study revealed a total of six archaeological sites and four site leads within 1 mile of the survey corridor. Of these, two site leads are located within the survey corridor. Due to the sensitive nature of archeological sites, at the request of SHPO, results are considered confidential. Background research indicated no previously

documented structures, bridges, or cemeteries were located within the survey corridor or within 1 mile of the survey corridor.

24. With respect to the Class II survey, Thunder Spirit, in consultation with the SHPO, established an APE for the survey that included the zone within one mile of the nearest turbine. The SHPO identified 23 properties for which documentation and assessment of eligibility to the National Register of Historic Places (NRHP) was requested. Literature review of the APE identified no previously documented architectural properties within the APE. During fieldwork conducted in the Spring of 2013, all 23 properties within the APE were photographically documented. Two of the properties turned out to contain no buildings 50 years old or older, while two others were without any buildings at all at the time of survey. Review of the remaining 19 properties led to the recommendation that these properties are not eligible for inclusion in the NRHP. With respect to potential effects of the proposed Project on architectural properties in the study area, a determination of No Historic Properties Affected was recommended. The full report was submitted to SHPO for concurrence and a concurrence letter was received which stated that the SHPO concurs with “No Significant Sites Affected” or “No Historic Properties Affected” provided that the project is of the nature stated and it takes place in the location plotted and described in the project documentation, and avoidance procedures are maintained.

25. The Class III Pedestrian Survey was conducted in May 2013 in accordance with protocol discussed with the SHPO. Twenty-three new archaeological sites were documented. It was recommended that eighteen sites be avoided and the creation of avoidance buffers was recommended for some of the sites. The remaining sites are not

considered eligible for inclusion in the National Register, nor would they appear to have cultural significance to regional Native American tribes; therefore, avoidance was not recommended. A full report was submitted to SHPO for concurrence and on August 14, 2013, a response was received which stated that the SHPO provisionally concurs with a “No Significant Sites Affected” and “No Historic Properties Affected” provided the project is of the nature stated and it takes place in the location plotted and described in the project documentation, and avoidance procedures are maintained.

26. Thunder Spirit is committed to minimize impacts to all identified cultural resources and will avoid these resources and any additional resources identified throughout the life of the project. The many archaeological sites and an associated avoidance buffer will be avoided during construction and snow fencing be placed around the avoidance buffer to reduce the potential that they will be inadvertently disturbed. If avoidance is not possible, Thunder Spirit will work with SHPO to mitigate potential impacts.

Wetlands and Wildlife

27. Thunder Spirit has consulted with numerous local, state and federal agencies, which are identified in Appendix B of the Application and Appendix B of the revised Amendment to the Application. To date, the agencies consulted have not objected to construction of the project.

28. A wetland and waters of the US delineation was conducted for the project in April/May of 2013. Five potentially jurisdictional wetlands and three waters of the US were identified within the Project Area in locations either intersected by planned project infrastructure or are near the planned project infrastructure.

Thunder Spirit has committed to zero permanent impacts to wetlands and waters of the US. Horizontal directional drilling could be used to install the electrical collection lines that cross delineated wetland features on the project site thereby avoiding permanent impacts. If there are still temporary impacts to wetlands from construction of any infrastructure, and if that temporary impact cannot be kept below the 1/10-acre threshold for use of a Nationwide Permit #12, then a pre-construction notification (PCN) and an application for a NWP #12 will be made to the United States Army Corps of Engineers regulatory office in Bismarck, North Dakota.

29. Avian surveys were conducted in June to October of 2007 at 20 locations within the project area and again from April 2011 to March 2012 at 25 locations within the project area.

In the 2007 avian surveys, 57 avian species were observed during the avian point count surveys. Four species dominated the observations, European starling, horned lark, ring-necked pheasant and western meadowlark, which accounted for 61.5 percent of all observations. Nine species of raptors were observed, including golden eagles (two individuals). Golden eagle observations occurred during the fall surveys and the individuals were observed flying within the anticipated rotor-swept area. Fourteen sensitive species listed as North Dakota Species of Conservation Priority (including the golden eagle) were observed. No other threatened or endangered (T&E) species were observed.

In the 2011-2012 avian surveys, 73 avian species were observed during the avian point count surveys. Two species, sandhill crane and horned lark, accounted for 53.5 percent of all observations with 7.1 percent of the horned larks and 95.6 percent of all

sandhill cranes recorded flying within the anticipated rotor-swept area (“RSA”). These cranes were all observed among four (4) flocks on a single day in April 2012. Eight species of raptors were observed, including golden and bald eagles (six (6) individuals and one (1) individual, respectively). Golden eagles were observed in all survey seasons in 2011-2012 with four observations recorded flying within the anticipated RSA. The bald eagle was observed perched during the winter survey. Twenty-one (21) sensitive species, listed as North Dakota Species of Conservation Priority, were observed including the federal candidate species Sprague’s pipit. One Sprague’s pipit was observed during the spring point count survey while two other individuals were observed during the late spring as incidental observations. No other threatened or endangered (T&E) species were observed. Additionally, due to the limited suitable roosting and foraging habitat, it was determined that there was a low to moderate likelihood of the occurrence of any bat species in the project area.

30. The mean raptor use in the Project area is considered to be low to moderate with the most abundant raptors at the project being northern harrier, red-tailed hawk, and Swainson’s hawk.

31. The presence of wind turbines may alter the landscape so that wildlife use patterns are affected, displacing wildlife such as prairie grouse away from the Project facilities and suitable habitat. While the potential exists for wind turbines to displace prairie grouse from occupied habitat, studies examining the extent of this potential impact are currently lacking. While there is no requirement for a buffer setback for wind energy, Thunder Spirit has imposed a 0.5 mile setback from known grouse leks. This is a buffer based on recommendations for petroleum development.

32. Based on the studies conducted and mitigation factors in place, no significant impacts to avian species are expected. Because most wildlife species do not use disturbed agricultural land, heavily grazed land, or maintained pastures and hayfields as their primary habitat, there will be minimal impacts to most species. Most non-raptors had relatively low risk of collision due to the majority of individuals flying below the likely rotor-swept area (“RSA”). It is unlikely that non-raptor populations will be adversely affected by direct mortality from the operation of the wind energy facility given the robustness of their overall populations and overall low impacts to any one species.

33. Thunder Spirit Wind intends to take a number of mitigative measures to protect avian species including conducting environmental studies of the project area to aid in the initial placement of turbines, roads, and associated facilities to avoid or minimize impacts to wildlife and habitat. Thunder Spirit is also developing a Bird and Bat Conservation Strategy for the project.

34. Other minimization measures that Thunder Spirit Wind will implement include buying all collection lines and reducing the overhead radial transmission line to 0.85 miles; siting access roads and turbines away from wetlands, water bodies, and native prairies to the greatest extent practicable; imposing a minimum two mile buffer around a noted eagle nest while ongoing behavioral observations are conducted to evaluate eagle use of the project area; imposing a 0.5 mile setback around the five known grouse leks in the design of the layout; conducting post construction mortality monitoring surveys for birds and bats for one year following construction of the project; restricting construction and/or operation activities due to active raptor nests, mapping and flagging raptor nests

found during construction, placing turbines as far away from raptor nests as project engineering constraints permit and avoid removal of trees; minimizing impacts to native vegetation and wetlands during design and construction of turbines and associated infrastructure; reseeding or planting disturbed areas with native material; enhancing existing degraded habitat, where practicable, through the removal and replacement of invasive species with plants native to the site; and developing a management plan to prevent the spread of noxious weeds throughout the Project Area or adjacent areas during construction and ongoing operations.

35. Thunder Spirit Wind will implement its Wildlife Response Reporting System (WRRS) once turbine construction is completed. The WRRS will include protocols for field technicians to report and document avian mortalities during routine maintenance operations.

Sound and Flicker Studies

36. Thunder Spirit Wind included an acoustic modeling analysis in Appendix A of the Application which was revised and included in Appendix A of the revised Amendment to the Application to reflect modifications to turbine locations. Acoustic modeling was conducted to include each of the three potential turbine models. The results of the acoustic modeling were compared to Adams County zoning ordinance noise levels, North Dakota Public Service Commission Avoidance Criteria levels as well as the U.S. Environmental Protection Agency (EPA) environmental noise guidelines.

37. The acoustic assessment illustrated the worst case scenario (downwind, full rotational speed, high air density, low background sound levels). There were no exceedances of the Adams County Zoning Ordinance noise limits which state that

sustained noise over 80 dB during the day and 70 dB at night is not allowed. Also, there were no exceedances of the ND PSC Avoidance Criteria that states that sound levels within 100' of an inhabited residence or a community building cannot exceed 50 dBA. And finally, there were no exceedances of the EPA guidelines at occupied residences. The analysis demonstrates that the project has been adequately designed inclusive of a number of conservative assumptions to generate sound levels below all applicable guidelines.

38. Thunder Spirit Wind included a Shadow Flicker Impact Analysis for the Thunder Spirit Wind Energy Project in Appendix A of the Application and included a revised analysis in Appendix A of the revised Amendment to the Application to reflect modifications to turbine locations. Thunder Spirit Wind performed a shadow flicker impact study to determine potential impacts on occupied residences located in or near the project and included analysis for each of the three potential turbine models that may be used for the project. The analysis was based assuming worst case conditions for shadow flicker (full sunlight and blades perpendicular to incoming sunlight) so as to conservatively estimate the potential amount of shadow impact hours for a year.

39. Shadow flicker impacts are not regulated in applicable state or federal law, and there is no permitting threshold with regard to hours per year of anticipated impacts to a receptor from a wind energy project. In lieu of specific regulations, a general precedent has been established in the industry that fewer than 30 hours per year of shadow flicker impacts is acceptable to receptors in terms of nuisance and well below health hazard concerns. However, predicted shadow flicker greater than this threshold does not necessarily create a nuisance and is still well below concerns for impacts to health.

40. A total of 26 potentially sensitive receptor locations were identified in the study. Considering all turbine scenarios, only 1 of the 26 receptors modeled had expected shadow flicker impacts of more than 30 hours per year but this was an abandoned structure. The maximum predicted shadow flicker impact at an occupied receptor is 25 hours 20 minutes per year which is below the 30 hours/year guideline. As a result, it appears that shadow flicker impact within the project area will be minimal and is not expected to be a significant environmental impact.

Further Mitigative Measures

41. No turbines will be placed within 2,640 feet of an occupied residence.

42. Thunder Spirit Wind will maintain ground water protection and soil conservation practices to protect topsoil and adjacent resources, and to minimize soil erosion during construction and operation of the project. Best Management Practices (BMPs) for erosion and sediment control will be used to minimize wind and water erosion in the project area during and after construction. Only land needed for the facility will be impacted. Temporarily disturbed areas will be restored and reseeded with native materials.

43. Thunder Spirit Wind has developed a management plan to protect against the spread of noxious weeds throughout the project area or adjacent areas during construction and ongoing operations.

44. Thunder Spirit Wind has a legal obligation to decommission the wind energy facilities.

45. Thunder Spirit Wind made other representations and covenants as contained in the Certification Relating to Order Provisions—Wind Energy Conversion Facility Siting

executed by Thunder Spirit Wind and filed with the Commission on August 14, 2013, which is incorporated into these Findings of Fact.

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

Conclusions of Law

1. The Commission has jurisdiction over this proceeding under North Dakota Century Code Chapter 49-22.
2. The energy conversion facility proposed by Thunder Spirit is an energy conversion facility as defined in North Dakota Century Code § 49-22-03(5).
3. The application submitted by Thunder Spirit meets the site evaluation criteria required by North Dakota Century Code Chapter 49-22.
4. The location, construction, and operation of the proposed energy conversion facility will produce only minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
5. The proposed energy conversion facility is compatible with environmental preservation and the efficient use of resources.
6. The proposed energy conversion facility will minimize adverse human and environmental impact, while ensuring continuing system reliability and integrity, and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.
7. The Commission has jurisdiction to ensure compliance with National Electric Safety Code standards in the construction and operation of the proposed energy conversion facility.
8. The proposed project is of such design, location, and purpose that it will produce minimal adverse effects.

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

Order

The Commission orders:

1. Certificate of Site Compatibility for an Energy Conversion Facility No. ___ is issued to Thunder Spirit Wind, LLC for the construction, operation and maintenance of a wind energy facility known as the Thunder Spirit Wind Energy Project.
2. The site as designated in the application is located in Adams County approximately 2 miles northeast of the City of Hettinger, North Dakota, and is designated as the site for construction of the wind energy facility.
3. Within the permitted area, Thunder Spirit Wind, LLC is authorized to site and construct up to 150 MW of wind turbines in proposed and alternate locations, along with electric collection and communication lines, a project substation, access roads, and other associated facilities as identified in the application and at the hearing.
4. Thunder Spirit Wind, LLC shall comply with the rules and regulations of all other agencies having jurisdiction over any phase of the proposed project, including all city, township and county zoning regulations.
5. Thunder Spirit Wind, LLC will obtain all other necessary approvals and permits and provide copies to the Commission prior to any construction activity associated with the wind energy facility that requires said concurrence, license, or permit.
6. Thunder Spirit Wind, LLC shall conduct a pre-construction conference prior to the commencement of any construction, and must include a Thunder Spirit Wind representative, its construction supervisor, and a representative of the Commission staff

to ensure that Thunder Spirit Wind, LLC fully understands the conditions set forth in this Order.

7. Thunder Spirit Wind, LLC shall inform the Commission of its intent to start construction on the energy conversion facility prior to the commencement of construction, and while construction is underway, Thunder Spirit Wind, LLC shall keep the Commission updated of construction activities on a weekly basis.

8. Thunder Spirit Wind, LLC shall construct and operate the energy conversion facility in the manner described in this application, at the hearing, in late-filed exhibits, and in accordance with all applicable safety requirements.

9. Thunder Spirit Wind, LLC shall construct the energy conversion facility in compliance with the National Electric Safety Code.

10. Thunder Spirit Wind, LLC shall report to the Commission the presence in the permit area of any critical habitat of threatened or endangered species, or a bald or golden eagle, that Thunder Spirit Wind, LLC becomes aware of and were not previously reported to the Commission.

11. If any cultural resources, paleontological resources, archeological site, historical resource, or grave site is discovered during construction of the facility, earth disturbing activities in the immediate vicinity of this discovery must be halted. The resource must be marked, preserved, and protected from any further disturbance until a professional examination can be made in consultation with the SHPO. A report of such examination must be filed with the Commission, and clearance to proceed must be given by the SHPO and the Commission.

12. All pre-existing township and county roads and lanes used during construction must be restored to a condition that will accommodate their previous use, and areas used as temporary roads during construction must be restored to their original condition.
13. Construction must be suspended when weather conditions are such that construction activities will cause irreparable damage, unless adequate protection measures approved by the Commission are taken.
14. Reclamation, fertilization and reseedling will be completed by Thunder Spirit Wind, LLC according to the Natural Resource Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.
15. Thunder Spirit Wind, LLC's obligations for reclamation and maintenance of the site shall continue throughout the life of the energy conversion facility.
16. When the energy conversion facility is retired, structures and other facilities must be removed to a depth of at least three feet, or in accordance with applicable rules, and the areas restored to as near as original condition as is practicable.
17. Trees and other woody vegetation must be replaced with saplings that are two or more years old at a rate of two for every one removed. Landowners shall be given the option of having replacement trees/shrubs planted on the landowners' property or waiving that requirement in writing, and allowing Thunder Spirit Wind, LLC to plant replacement trees/shrubs elsewhere. Thunder Spirit Wind, LLC shall inspect tree replacements once a year for three years and send a report on or before October 1 of each year to the Commission documenting work completion and condition of woodlands planting. The Commission may order additional plantings if survival rates are less than 75%.

18. Thunder Spirit Wind, LLC shall repair or replace all fences and gates removed or damaged during all phases of construction and operation of the proposed energy conversion facility.

19. Thunder Spirit Wind, LLC shall repair or replace all drainage tile, broken or damaged, during all phases of construction and operation of the proposed energy conversion facility.

20. Staging areas or equipment shall not be located on cultivated land unless otherwise negotiated with landowners.

21. Thunder Spirit Wind, LLC shall remove all waste that is a product of construction and operation, restoration and maintenance of the site, and properly dispose of it on a regular basis.

22. Thunder Spirit Wind, LLC shall, as soon as practicable, upon the completion of the construction of each wind turbine, restore the area affected by the construction to the condition as it existed prior to the beginning of construction as near as is practicable.

23. Thunder Spirit Wind, LLC shall provide, if requested, educational material for landowners within the site boundaries about the proposed energy conversion facility, and any restriction of possible danger concerning the proposed energy conversion facility.

24. Thunder Spirit Wind, LLC shall provide any necessary safety measures for traffic control or to restrict public access to the energy conversion facility.

25. Thunder Spirit Wind, LLC shall advise the Commission of any extraordinary events which take place at the site of the energy conversion facility, such as tower collapse, extensive turbine failure, injured worker or private individual, mortality events

of any threatened or endangered species or the discovery of a large number of dead birds or bats on the site within five business days of such event.

26. Thunder Spirit Wind, LLC shall implement a procedure for how complaints concerning the proposed energy conversion facility will be handled by Thunder Spirit Wind.

27. All underground electric line crossing of graded roads shall be bored unless the responsible governing agency permits Thunder Spirit Wind, LLC to open cut the road.

28. Where available, at least 12 inches of topsoil over and along open cut areas, roadways, tower locations, and locations of associated facilities must be stripped and segregated from the subsoil and be replaced only after the subsoil is replaced.

29. Thunder Spirit Wind, LLC shall bury all underground collection and feeder lines to a depth of at least 48 inches to the top of the lines.

30. Thunder Spirit Wind, LLC shall work with landowners and residents in the area to mitigate any increase in television and residential radio interference that results from the construction of the energy conversion facility.

31. Thunder Spirit Wind, LLC shall provide the Commission with as-built drawings within three months after construction of the energy conversion facility is complete.

32. The Certificate of Site Compatibility is subject to suspension or revocation and may, in an appropriate and proper case, be suspended or revoked for failure to comply with the Commission's Order, the conditions and criteria of each Certificate or subsequent modification, or failure to comply with the applicable statutes, rules, regulations, standards, and permits of other state or federal agencies.

33. Thunder Spirit Wind, LLC shall maintain records which will demonstrate that it has complied with the requirements of this Order and the Certificate of Site Compatibility, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.

34. Thunder Spirit Wind, LLC shall inform the Commission of any plans to add additional turbines to the energy conversion facility or of any plans to modify the site plan for the energy conversion facility. Any additions or modifications to the site plan for the energy conversion facility must be approved in writing by the Commission or Commission staff.

35. North Dakota Century Code § 49-02-27 provides that the Commission has the power to establish rules for decommissioning of wind energy conversion facilities. Thunder Spirit Wind, LLC is required to comply with all applicable rules adopted by the Commission pursuant to such statute.

36. The authorizations granted by the Certificate of Site Compatibility for this energy conversion facility are subject to modification by order of the Commission if deemed necessary to further protect the public or the environment.

PUBLIC SERVICE COMMISSION

Brian P. Kalk Commissioner	Randy Christmann Commissioner	Julie Fedorchak Commissioner
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