

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Allete Clean Energy, Inc.  
100 MW Clean Energy #1 Wind Pjc- Mercer & Morton  
Counties  
Siting Application

Case No. PU-11-662

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

Cara DeSaye deposes and says that:

she is over the age of 18 years and not a party to this action and, on the 30<sup>th</sup> day of **August, 2012**, she deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

**Order**

and an original of:

**Certificate of Site Compatibility for Energy Conversion Facility  
Certificate Number 30**

The envelope was addressed as follows:

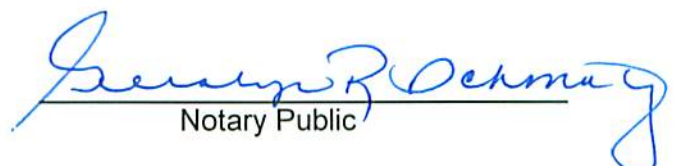
David Moeller  
ALLETE Clean Energy, Inc.  
30 West Superior Street, Suite 200  
Duluth MN 55802-2093

**Cert. No. 7011 3500 0003 4574 5360**

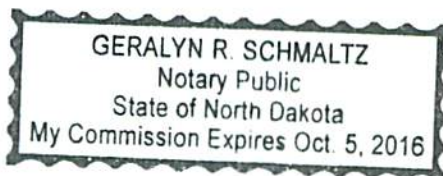
Each address shown is the respective addressee's last reasonably ascertainable post office address.

  
\_\_\_\_\_

Subscribed and sworn to before me  
this 30<sup>th</sup> day of **August, 2012**.

  
\_\_\_\_\_  
Notary Public

SEAL



**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**ALLETE Clean Energy, Inc.  
100 MW Clean Energy #1 Wind Pjc – Mercer & Morton  
Siting Application**

**Case No. PU-11-662**

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

**August 29, 2012**

**Appearances**

Commissioners Tony Clark, Kevin Cramer, and Brian P. Kalk.

David R. Moeller, Senior Attorney, ALLETE Clean Energy, 30 West Superior Street, Duluth, MN 55802, on behalf of the Applicant.

Mark Gruman, Legal Counsel on behalf of the North Dakota Public Service Commission.

Patrick Ward, Administrative Law Judge pursuant to temporary appointment by the Office of Administrative Hearings, 1701 North Ninth Street, Bismarck, North Dakota 58501-1882, as Procedural Hearing Officer.

**Preliminary Statement**

On October 17, 2011, ALLETE Clean Energy, Inc., a subsidiary of ALLETE, Inc. (ALLETE Clean Energy) submitted a Letter of Intent (LOI) to submit an application for a Certificate of Site Compatibility for a nominal 100 MW wind energy conversion facility in Mercer and Morton counties of North Dakota. ALLETE Clean Energy requested in its LOI that the Commission shorten the one-year waiting period required between filing the LOI and the filing of an application.

On November 23, 2011, the North Dakota Public Service Commission (Commission) shortened the one-year waiting period to 30 days, and assessed a filing fee of \$100,000.00 due upon filing of an application.

On January 31, 2012, ALLETE Clean Energy filed an Application for a Certificate of Site Compatibility (Application) authorizing construction of the up to 100 MW Clean Energy #1 Wind Project (Clean Energy #1 Wind Project) consisting of up to 50 wind turbine generators and associated facilities in Mercer and Morton counties, North Dakota (Hearing Exhibit 1).

On March 21, 2012, the Commission deemed the Application complete conditioned on the filing of final wind turbine locations one week before the scheduled public hearing, and issued a Notice of Filing and Notice of Hearing, scheduling a public hearing for May 4, 2012, at 9:00 a.m. CDT, at the City Commission Meeting Room, 205 2nd Ave NW, Mandan, North Dakota 58554.

The Notice identified the following issues to be considered:

1. Will the location, construction and operation of the proposed facilities produce minimal adverse effects on 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 continued system reliability and integrity, and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

On April 23, 2012, ALLETE Clean Energy filed an executed Certification Relating to Order Provisions – Wind Energy Conversion Facility Siting (Hearing Exhibit 3).

On April 26, 2012, ALLETE Clean Energy submitted a map detailing the proposed final locations for turbines. ALLETE Clean Energy also supplemented its Application with additional information on wetland delineation, cultural resources surveys and agency consultation (Hearing Exhibit 2).

On May 4, 2012, 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 of Fact**

1. ALLETE Clean Energy, is a wholly owned subsidiary of ALLETE, Inc.
2. ALLETE Clean Energy is registered to conduct business in the State of North Dakota, as evidenced by a Certificate of Good Standing issued by the North Dakota Secretary of State on November 7, 2011.
3. ALLETE Clean Energy proposes to construct and own a wind energy facility (the Clean Energy #1 Wind Project) to be located north of Glen Ullin, North Dakota in Mercer and Morton counties. The project area consists of approximately 12,000 acres. The wind turbines will be placed throughout the project site.

4. Associated facilities to be constructed within the project area include access roads, underground electrical and feeder lines, additions to an existing electrical substation, meteorological towers, wind monitoring stations, and operations and maintenance buildings.

5. 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. Mercer and Morton counties require zoning permits for construction, which ALLETE Clean Energy is in the process of obtaining.

### Project Design

6. The project is expected to have a nameplate (gross) generating capacity of approximately 100 MW, consisting of up to 50 wind turbines, depending on turbine size and associated facilities.

7. ALLETE Clean Energy has not yet selected a wind turbine, but each turbine will have a maximum blade tip height of 150 meters that is derived from a maximum nominal hub height of 90 meters (295 feet), and a maximum nominal rotor diameter of 120 meters (393 feet).

8. Each tower will be secured by a concrete foundation that can vary in design depending on the soil conditions. A typical foundation extends seven to ten feet below grade where it spreads to a final diameter of 50 to 70 feet at the base. Turbine lighting will be limited to warning lights required by the Federal Aviation Administration. 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 to the turbine control system to signal when sufficient winds are present for operation. The turbine features variable-speed control and independent blade pitch to assure aerodynamic efficiency. 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. This electricity is collected by sets of underground power collection lines.

9. The 34.5 kV collector system will transmit power to a proposed Minnesota Power substation in Mercer County. At the Project substation, the power will be transformed to a proposed 230 kV transmission line that will connect with Minnesota Power's existing 230kV Bison – Square Butte 84 Line to interconnect at the Square Butte 230 kV Substation. Electrical energy is converted from AC to DC via a DC converter station within the Square Butte Substation. From there, the electric energy from the Clean Energy #1 Wind Project will be transmitted to customers via the existing Minnesota Power DC Line which extends from the Square Butte Substation to Minnesota Power's Arrowhead Substation located near Duluth, Minnesota. Electrical energy may also reach ALLETE Clean energy customers via the existing AC transmission system, as capacity is available.

10. Wind data was collected from meteorological towers constructed in the project site area. ALLETE Clean Energy expects the project will have annual average wind speeds of 8 mps (equivalent to 17.8 mph) or higher, comparable to National Renewable Energy Laboratory wind power class ratings of 5 and 6, indicating an excellent to outstanding wind resource. ALLETE Clean Energy estimates expected annual energy production from the project at 350,000 MWh, equating to a generating capacity factor of approximately 42%.
11. Construction of the Clean Energy #1 Wind Project is expected to take approximately 6 months, at a total estimated construction cost of \$200 million depending on final project design, turbine selection and market pricing at the time the project is executed.
12. ALLETE Clean Energy states it has secured all wind options from landowners necessary for the construction and operations of the Clean Energy #1 Wind Project.
13. The project schedule is dependent on ALLETE Clean Energy securing an off-taker.
14. 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 turbine. In addition, each turbine is equipped with a lightning protection system and is grounded and shielded to protect against lightning.
15. Construction and operation of the Clean Energy #1 Wind Project will conform to requirements of the National Electric Safety Code.

#### Siting Criteria

16. 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 Section 69-06-08-01 are 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.

17. Exhibit 7 of the Application labeled Prime Farmland Soil Distribution Map shows that approximately 1.4 percent of the site is prime farmland soils, most of it located in the southeast and northeast portions of the site. The final layout will site only a limited number of turbines and facilities in prime farmlands. Even if all the turbines and access roads were placed within prime farmland areas, only approximately 64 acres of prime farmland would be impacted, or approximately 0.1 percent of prime farmland in the Project site. Unique and prime farmland to be disturbed by this energy conversion facility is of such small acreage as to be of negligible impact on agricultural production.

18. Approximately 64 acres of agricultural production will be impacted due to turbine placement, access roads, the operations and maintenance facility 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, ALLETE Clean Energy will work with landowners to alleviate the compaction.

19. ALLETE Clean Energy submitted evidence to demonstrate that the proposed energy conversion facility would not have significant impact on the Selection Criteria set forth in North Dakota Administrative Code section 69-06-08-01(3).

20. ALLETE Clean Energy 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 Section 69-06-08-01(4).

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.

22. The only Avoidance Areas identified within the project area are wetlands. ALLETE Clean Energy testified that there will be a negligible impact to wetland resources.

23. According to North Dakota Geological Survey data provided by the applicant, no viable lignite coal economic reserves have been identified within the project area.

#### Cultural Resources

24. The Clean Energy #1 Wind Project will avoid all known archaeological sites.

25. On July 9, 2012 the North Dakota State Historic Preservation Office issued a letter concurring with the conclusion of the Class III Cultural Resource Inventory for the Clean Energy #1 Wind Project by Beaver Creek Archaeology of Mandan, North Dakota, regarding the "No Significant Sites Affected" and "No Historic Properties Affected" determinations (Late-filed Hearing Exhibit 4).

#### Wetlands and Wildlife

26. ALLETE Clean Energy has consulted with numerous local, state, and federal agencies, which are identified in Appendix C of the Application, and Appendix A of the April 2012 Supplement. No agency has objected to construction of the project.

27. At the request of USFWS, ALLETE Clean Energy is developing an Avian and Bat Protection Plan (ABPP) that will be implemented during construction and for post-construction monitoring. The ABPP will include protocols for field technicians to report and document avian mortalities during routine maintenance operations.

28. A wetland delineation was conducted for the Clean Energy #1 Wind Project and the results were submitted to the Commission. Wetlands will be avoided to the extent practicable during the construction phase of the project. If impacts to Clean Water Act jurisdictional waters are unavoidable and less than one-half acre, ALLETE Clean Energy will seek project authorization under a Section 404 U.S. Army Corps of Engineers (USACE) Nationwide Permit (NWP) application. Any permanent impacts to jurisdictional waters will be mitigated according to USACE requirements.

#### Further Mitigative Measures

29. Morton County has established setbacks for wind turbine towers from property boundaries, road right-of-ways (ROW), and occupied residences. ALLETE Clean Energy's proposed turbine locations will meet or exceed those setback requirements. The Morton County Special Use Permit was included in the April 2012 supplemental filing (Appendix F)

30. As part of their permitting process, Mercer County required specific turbine location information as well as road layout design. Upon receiving approval from the North Dakota PSC, ALLETE Clean Energy will then move forward with obtaining a Conditional Use Permit from the Mercer County Board. Once obtained, ALLETE Clean Energy will file a copy of the Mercer County's Conditional Use Permit with the Commission.

31. ALLETE Clean Energy proposed setbacks of at least 1.1 x turbine height from existing transmission lines, publically improved and maintained road right-of-ways, railroads and non-participant property boundaries. For a maximum 491.5 ft turbine height the minimum setback distance would be 540.65 feet.

32. No turbines will be placed within 1,400 feet of an occupied residence. The closest turbine to a participating occupied residence is approximately 1,540 feet (late filed Exhibit 7). The closest turbine to a non-participating occupied residence is approximately 2,360 feet (late filed Exhibit 7).

33. ALLETE Clean Energy conducted noise and shadow flicker analyses, using both "worst case" and "realistic" scenarios. These studies indicated that the Project will not cause adverse effects due to either noise or shadow flicker. As shown in Hearing Exhibit 2 (Appendix I), the highest expected cumulative noise level at any residence is less than 44 decibels (dB).

34. As shown in Hearing Exhibit 2 (Appendix H), shadow flicker models show that the participating residence with the greatest potential exposure will experience about 36 hours annually. This participating landowner and another participating landowner have executed shadow flicker waivers with ALLETE Clean Energy (late-filed Exhibit 7).

35. Shadow flicker exposure at participating residences that were not asked to execute waivers will be below the recognized industry standard of 30 hours/year. Those same models predict that the highest level of exposure at a non-participating residence would be about 25 hours.

36. ALLETE Clean Energy 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.

37. ALLETE Clean Energy has a legal obligation to decommission the wind energy facilities.

38. ALLETE Clean Energy made other representations and agreements as contained in the Certification Relating to Order Provisions – Wind Energy Conversion Facility Siting executed by ALLETE Clean Energy and filed with the Commission on April 23, 2012 (Hearing Exhibit 3), which is incorporated in these Findings of Fact. The Commission accepts ALLETE Clean Energy's proposed modification to Paragraph 16 that it shall bury all underground collection and feeder lines to a depth of at least 42 inches to the top of the lines due to ALLETE Clean Energy's representation at the May 4, 2012 hearing about increased costs and that safety will not be compromised. The Commission accepts the following modifications proposed to the Tree and Shrub Mitigation Specifications attached to the certification:

- a. Paragraph 2: In windbreaks, shelterbelts and other planted areas trees that are one inch diameter or greater at breast height or shrubs anticipated to be cleared must be inventoried for replacement.

- b. Paragraph 3: In native growth areas trees anticipated to be cleared that are 3 inch diameter at breast height or greater must be inventoried for replacement.

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 ALLETE Clean Energy is an energy conversion facility site as defined in North Dakota Century Code section 49-22-03(11).
3. The Application submitted by ALLETE Clean Energy 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 make its:

### **Order**

The Commission orders:

1. Certificate of Site Compatibility for an Energy Conversion Facility No. 30 is issued to ALLETE Clean Energy for the construction, operation, and maintenance of a wind energy facility known as Clean Energy #1 Wind Project in accordance with this Order.

2. The site, as proposed in the Application, is located in Mercer and Morton counties north of Glen Ullin, North Dakota, and is designated as the site for construction of the energy conversion facility.

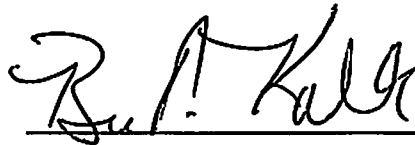
3. ALLETE Clean Energy is authorized to construct up to 50 wind turbines totaling up to 100 MW of total generating capacity in proposed and alternate locations, along with electric collection and communication lines, a project substation, operations and maintenance buildings, meteorological towers, access roads and other associated facilities identified in the application and at the May 4, 2012 public hearing.

4. The April 23, 2012, Certification Relating to Order Provisions – Wind Energy Conversion Facility Siting (Hearing Exhibit 3), except as modified in accordance with Findings of Fact paragraph 38 above, is incorporated by reference and attached to this Order.

**PUBLIC SERVICE COMMISSION**



**Kevin Cramer  
Commissioner**



**Brian P. Kalk  
Chairman**



**Bonny M. Fetch  
Commissioner**

**PUBLIC SERVICE COMMISSION**

**STATE OF NORTH DAKOTA**

**Certificate of Site Compatibility for Energy Conversion Facility**

**Certificate Number 30**

*This is to certify that the Commission has designated an energy conversion facility site for Allete Clean Energy, Inc.'s Clean Energy #1 Wind Project consisting of up to 50 Wind turbine generators totaling approximately 100 MW of generating capacity and associated facilities in Mercer and Morton Counties of 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 Finding of Fact, Conclusion of Law and Order of the Commission in Case No. PU-11-662 dated August 29, 2012 and is subject to the conditions and limitations noted in that order.*

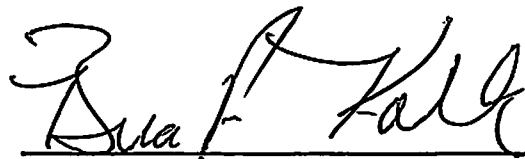
*Bismarck, North Dakota, August 29, 2012.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

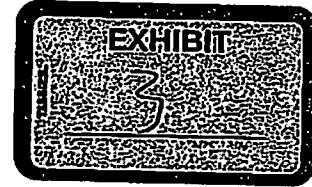


**Executive Secretary**



**Commissioner**

April 20, 2012



Mr. Darrell Nitschke  
Executive Secretary  
North Dakota Public Service Commission  
600 E. Boulevard Ave., Dept. 408  
Bismarck, North Dakota 58505-0480

**RE: ALLETE Clean Energy, Inc.  
100 MW Clean Energy #1 Wind Project, Mercer & Morton Counties  
Siting Application  
Case No. PU-11-662**

Dear Mr. Nitschke:

Please find enclosed an original and ten copies of ALLETE Clean Energy's Certification Relating to Order Provisions – Energy Conversion Facility Siting, and certain conditions to which ALLETE Clean Energy has agreed.

Please let us know if you have any questions or we can discuss further at the May 4, 2012 public hearing.

Sincerely,

A handwritten signature in cursive script that reads "David R. Moeller".

David R. Moeller

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Enc.

c: Eric Norberg, ALLETE Clean Energy  
Dwight Anderson, ALLETE Clean Energy  
Steve Peluso, ALLETE Clean Energy  
Jim Atkinson, ALLETE  
Daniel McCourtney, ALLETE

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

**Allete Clean Energy, Inc.**  
**100 MW Clean Energy #1 Wind Pjc – Mercer & Morton**  
**Counties**  
**Siting Application**

**Case No. PU-11-662**

**CERTIFICATION RELATING TO ORDER PROVISIONS - ENERGY CONVERSION  
FACILITY SITING**

I am Eric Norberg, a representative of ALLETE Clean Energy ("Company") with authority to bind Company to requirements to be set forth by the Commission in its Order and I certify the following:

1. Company understands and agrees that the Certificate of Site Compatibility will be issued by the Commission subject to the conditions and criteria set forth in Chapter 49-22 of the North Dakota Century Code and Chapter 69-06-08 of the North Dakota Administrative Code, and that Company shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
  2. Company agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Company representative, its construction supervisor, and a representative of Commission Staff, to ensure that Company fully understands the conditions set forth in the Commission's order.
  3. Company agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the proposed energy conversion facility including all city, township, and county zoning regulations.
  4. Company understands and agrees that it shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction activity associated with the energy conversion facility that requires said license or permit.
  5. Company agrees to inform the Commission and the Commission's third-party construction inspector of its intent to start construction on the energy conversion facility prior to the commencement of construction. Once construction has started, Company shall keep the Commission and the Commission's third-party construction inspector updated of construction activities on a weekly basis.
  6. Company understands and agrees that 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
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conditions and criteria of the certificate or subsequent modification, or failure to comply with the applicable statutes, rules, regulations, standards, and permits of other state or federal agencies.

7. Company agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order and the Certificate of Site Compatibility, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.
8. Company agrees to construct and operate the energy conversion facility in accordance with all applicable safety requirements.
9. Company agrees to construct and operate the energy conversion facility in the manner described in Company's application, in any late filed exhibits, and supplemental materials, (Application). To the extent there are any conflicts or inconsistencies between Company's Application and the provisions in this Certification Relating to Order Provisions, the Certification provisions control.
10. Company agrees to report promptly to the Commission the presence in the permit area of any critical habitat of threatened species, endangered species, bald eagles, or golden eagles that Company becomes aware of and which were not previously reported to the Commission.
11. Company understands and agrees that all cultural resource mitigation plans must be submitted to the North Dakota State Historic Preservation Office and approved prior to the start of any fieldwork and construction activity in the affected area.
12. Company understands and agrees that if any cultural resource, paleontological site, archeological site, historical site, or grave site is discovered during construction, it must be marked, preserved and protected from further disturbances until a professional examination can be made by the State Historical Society, a report of such examination is filed with the Commission, and clearance to proceed is given by the Commission.
13. Company understands and agrees that all buried facility crossings of graded roads shall be bored unless the responsible governing agency specifically permits Company to open cut the road.
14. Company understands and agrees that all pre-existing township and county roads and lanes used during construction must be repaired or restored to a condition that is equal to or better than the condition prior to the construction of the energy conversion facility and that will accommodate their previous use, and that areas used as temporary roads or working areas during construction must be restored to their original condition.

15. Company understands and agrees that construction must be suspended when weather conditions are such that construction activities will cause irreparable damage to roads or land, unless adequate protection measures approved by the Commission are taken.
16. During construction, at least 12 inches of topsoil, where available (or topsoil to the depth of cultivation, whichever is greater), over and along areas where facilities will be placed must be stripped and segregated from subsoil. Any area on which excavated subsoil will be placed must first be stripped of topsoil. After backfilling with subsoil is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography. Topsoil must not be placed within the footprint of the facilities, and must be placed over areas containing topsoil.

Company understands and agrees that where available, at least 12 inches of topsoil over and along trench areas, roadways, tower locations, and locations of associated facilities shall be stripped and shall be segregated from the subsoil and be replaced only after the subsoil is replaced. Any area on which excavated subsoil will be placed must first be stripped of topsoil. After backfilling with subsoil is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography.

17. Company understands and agrees that it shall bury all underground collection and feeder lines to a depth of at least 48 inches to the top of the lines.
18. Company understands and agrees that reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.
19. Company understands and agrees that its obligation for reclamation and maintenance of energy conversion facility tower locations, associated facilities, roadways and rights-of-way will continue throughout the life of the energy conversion facility.
20. Company is aware that North Dakota law requires that all companies that own or operate electric generation of any size for the primary purpose of resale must comply with the standards of the National Electrical Safety Code in effect at the time of construction of the generation facility, and agrees to comply with that requirement.
21. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.

22. Company understands and agrees that it shall repair or replace all fences and gates removed or damaged during all phases of construction and operation of the proposed energy conversion facility.
23. Company understands and agrees that it shall repair or replace all drainage tile broken or damaged as a result of construction and operation of the proposed energy conversion facility.
24. Company understands and agrees that it shall work with landowners and residents to mitigate any increase in television and residential radio interference that results from the construction of the energy conversion facility.
25. Company understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Company unless otherwise negotiated with landowners.
26. Company understands and agrees that it 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.
27. Company agrees that it shall, as soon as practicable upon the completion of the construction of each wind turbine, restore the area affected by the activities to as near as is practicable to the condition as it existed prior to the beginning of construction.
28. Company agrees that it shall provide, if requested, educational material for landowners within the site boundaries about the proposed energy conversion facility and any restriction or danger concerning the proposed energy conversion facility.
29. Company understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the energy conversion facility.
30. Company understands and agrees that it shall advise the Commission of any extraordinary events which take place at the site of the energy conversion facility, including injuries to any person, the death of any threatened or endangered species, a tower collapse, or a catastrophic turbine failure, within five business days of such event.
31. Company understands and agrees that it shall advise the Commission of the discovery of a large number of dead birds or bats on the site within five business days of such event.

32. Company understands and agrees that it shall implement a procedure for how complaints concerning the proposed energy conversion facility will be handled by Company
33. Upon request, Company agrees to provide the Commission with engineering design drawings showing surveyed structure prior to construction.

Company agrees to provide the Commission with engineering design drawings showing surveyed structure and collection substation locations prior to construction.

34. Company understands and agrees that it shall inform the Commission in writing of any plans to modify the energy conversion facility, or of any plans to modify the site plan for the energy conversion facility. Company understands and agrees to obtain written approval from the Commission prior to any modifications to the site plan or the energy conversion facility, associated facilities, and roadway locations. Approval may be granted after notice and opportunity for hearing.
35. Company agrees to provide the Commission with both an electronic and a paper copy of the design specifications for the construction of the energy conversion facility showing the location of the energy conversion facility as built, and will provide this information within 3 months of the completion of the construction. Company also agrees to provide an electronic version of the as-built facility design specifications that can be imported into ESRI GIS mapping software within 3 months of the completion of the construction. This electronic map data must be referenced to the North Dakota coordinate system of 1983, North and/or South zones US Survey feet (NAD 83) UTM Zone 13N or 14N feet (NAD 83), or geographic coordinate system (WGS 84) feet. The vertical data must be in the appropriate vertical datum for the coordinate system used. All submissions must specify the datum in which the data was developed.
36. Company is aware that under North Dakota Century Code section 49-02-27 the Commission has rules for decommissioning of wind energy conversion facilities. Company agrees to comply with all decommissioning rules adopted by the Commission.
37. Company understands and agrees that the authorizations granted by the Certificate of Site Compatibility for the energy conversion facility are subject to modification by order of the Commission if deemed necessary to protect further the public or the environment.
38. Company understands and agrees that in the event Company desires to construct, within any site granted by a Certificate of Site Compatibility in this proceeding, an energy conversion facility that was not requested in Company's application in this

proceeding, Company shall apply for a Certificate of Site Compatibility for the facility.

39. Company shall notify the Commission, as soon as reasonably possible, if any damage, as defined by North Dakota Century Code Chapter 49-23, occurs to underground facilities during construction conducted under the certificate or permit issued in this proceeding. In the event of any damage to underground facilities, Company shall suspend construction in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century Code Chapter 49-23 has been determined and clearance to proceed has been given by the Commission.
40. The certificate of site compatibility is subject to suspension or revocation and may, after hearing, be suspended or revoked for failure to comply with the Commission's order, requirements of the One-Call Excavation Notice System under North Dakota Century Code Chapter 49-23, the conditions and criteria of the certificate or permit or subsequent modification, or failure to comply with applicable statutes, or rules, regulations, standards, and permits of other state or federal agencies.

Dated this 20<sup>th</sup> day of April, 2012.

Company Name ALLETE Clean Energy, Inc.

By Eric Norberg

Its President

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

**Allele Clean Energy, Inc.  
100 MW Clean Energy #1 Wind Pjc – Mercer &  
Morton Counties  
Siting Application**

**Case No. PU-11-662**

**Tree and Shrub Mitigation Specifications**

**Inventory**

1. Trees and shrubs anticipated to be cleared, including those that are considered invasive species or noxious weeds (e.g., *Caragana arborescens*, *Elaeagnus angustifolia*, *Rhamnus cathartica*, *Tamarix chinensis*, *T. parviflora*, *T. ramosissima*, *Ulmus pumila*), must be inventoried before cutting. The inventory must record the location, number, and species of trees and shrubs.
2. In windbreaks, shelterbelts and other planted areas, trees or shrubs anticipated to be cleared, regardless of size, must be inventoried for replacement.
3. In native growth areas, trees anticipated to be cleared that are 1 inch diameter at breast height (dbh) or greater must be inventoried for replacement.
4. In native growth areas, shrubs anticipated to be cleared in the permanent right-of-way must be inventoried for replacement.
5. In native growth areas outside the permanent right-of-way, shrubs must be cut flush with the surface of the ground, taking care to leave the naturally occurring seed bank and root stock intact. If soil disturbance is necessary, the native topsoil must be preserved and replaced after construction. Shrubs must be allowed to regenerate naturally where native topsoil is preserved and replaced. Where native topsoil is not preserved and replaced, shrubs anticipated to be cleared must be inventoried for replacement.

6. In native growth areas, trees and shrubs may be inventoried by actual count or by a sampling method that will properly represent the woody vegetation population. A sampling plan developed by the company, filed with the North Dakota Public Service Commission (Commission) and approved prior to the start of construction must define the sampling method to be used for trees, for tall shrubs and for low shrubs. The data from the sample plots must be extrapolated to the total acreage of the wooded area to be cleared to determine the species and quantity of trees and shrubs to be replaced.

#### **Clearing for Construction**

7. Trees and shrubs must be selectively cleared, leaving mature trees and shrubs intact where practical.
8. The maximum width of clear cuts through windbreaks, shelterbelts and all other wooded areas is 50 feet, unless otherwise approved by the Commission.
9. If the area of trees or shrubs actually cleared differs from the area inventoried, the difference in number of trees and shrubs to be replaced must be noted on the inventory.

#### **Replacement**

10. Prior to tree and shrub replacement, documentation identifying the number and variety of trees and shrubs removed, as well as the mitigation plan for the proposed number, variety, type, location and date of replacement plantings, must be filed with the Commission for approval.
11. Two 2-year-old saplings must be planted for every one tree removed. Two shrubs (stem cuttings) must be planted for every one shrub removed.
12. Except in the case of invasive or noxious species, trees and shrubs must be replaced by the same species or similar species, suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service.

Invasive or noxious species must be replaced by similar non-invasive or non-noxious species suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service.

13. Landowners must be given the option of having replacement trees and shrubs planted on the landowner's property, either on or off the right-of-way. The landowner must also be given the opportunity to waive those options in writing in order to have replacement trees and shrubs planted off the landowner's property.
14. At the conclusion of the project, documentation identifying the actual number, variety, type, location and date of the replacement plantings must be filed with the Commission.
15. Tree and shrub replacements must be inspected annually, in September, for three years. The first annual inspection must be at least one year from the anniversary date of the original plantings. A report of each annual inspection must be submitted to the Commission by October 1 of each year, documenting the condition of plantings and any woodlands work completed as of September of each year. If after the third annual report the survival rate is less than 75%, the Commission may order additional planting(s).