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**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Public Service Commission
Siting
Rulemaking**

Case No. PU-12-165

**PUBLIC SERVICE COMMISSION STAFF TESTIMONY
July 12, 2012**

My name is Jerry Lein. I am a Public Utility Analyst with the Public Service Commission. The purpose of my testimony is to explain the proposed changes to the Commission's administrative rules pertaining to the siting of energy conversion and transmission facilities, Article 69-06 of the North Dakota Administrative Code promulgated under N.D.C.C. Chapter 49-22. The proposed rule changes are the result of a working group of state government and industry representatives.

The major purposes for the rule changes are to update and codify the Commission's existing siting application guidelines, establish setback and other requirements for siting wind turbines, and to implement abbreviated procedures for siting small wind projects with less than 20 MW of generating capacity.

The Commission's existing siting application guidelines were established in 1979. Over the years, technology and procedure have evolved and the guidelines needed to be rewritten to reflect the various changes. As examples, mylar maps and stereo air photographs are no longer needed and wind turbine sitings were not considered during the development of the guidelines. Further, updated relevant guidelines should be promulgated as

rules. Amendments are proposed to do just that and there will no longer be any guidelines applicable to siting requirements.

The proposed changes also help to clarify the process for service of siting notices by explicitly indicating that service of notices can be accomplished by electronic mail. Updates were also made to the list of agencies that need to be served with notices of filings.

A proposed new exclusion area is included to prevent energy conversion and transmission facilities from being located within 1,200 feet of a nuclear missile launch facility.

Additional proposed exclusion areas have been added for wind turbines which prevent a wind turbine from being located within a distance of 1.1 times the turbine height (often referred to as fall down distance) from railroads, road rights-of-way, electric transmission lines and property boundaries. A new avoidance area is proposed where turbine noise 100 feet from a residence or community building will exceed 50 dBA. The proposed rules include the opportunity for a property owner to waive this avoidance area and the property line exclusion area in writing.

A proposed new chapter is added to Article 69-06 to provide an abbreviated siting process for small wind energy conversion facilities with generating capacity of 20 MW or less. In the 2011 legislative session, the legislature enacted Senate Bill 2196, lowering the siting jurisdiction threshold for wind farms to .5 MW. Rather than requiring small wind farms to following

the same application process that is applicable to larger wind farms, an abbreviated process that still protects the environment is proposed for these smaller projects. In short, an applicant for a wind farm sized between 20 MW and .5 MW would certify that the project does not affect an exclusion area, and include a description of any avoidance area impacted and the reasons it cannot be avoided. The Commission may then issue a notice of opportunity for hearing or if it deems appropriate, issue the requested permit or certificate without conducting a hearing.

This concludes my testimony. I would be happy to answer any questions at this time. Thank you.