



Public Service Commission
State of North Dakota

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NOTICE OF NONCOMPLIANCE

RE: Case No. PU-14-105
Sunflower Wind Project, LLC – Sunflower Wind Energy Project
Aircraft Detection Lighting System

North Dakota Century Code (“N.D.C.C”) 49-22-16.4(3) and North Dakota Administrative Code (N.D.A.C.) 69-06-11-02(2) state that, by December 31, 2021, every wind energy conversion facility for which the Public Service Commission issued a certificate of site compatibility before June 5, 2016, must be equipped with a functioning light mitigating technology.

N.D.A.C. 69-06-11-02(5) provides that written notice to the Commission is required upon implementation of light-mitigating technology.

Based on the documentation on file at the Commission, Staff concludes that a light mitigating technology system was not functioning at the Sunflower Wind Energy Project as of December 31, 2021. Therefore, Sunflower Wind Project, LLC (Sunflower Wind) is not in compliance with North Dakota law.

N.D.C.C. 49-22-21(3)(b-c) sets forth the following penalty provisions for non-compliance:

- 3. Any person who willfully engages in any of the following conduct is subject to a civil penalty of not to exceed ten thousand dollars for each such violation for each day the violations persist, except that the maximum penalty may not exceed two hundred thousand dollars for any related series of violations:

...

- b. Constructs, operates, or maintains an electric energy conversion facility or an electric transmission facility other than in compliance with the certificate or permit and any terms, conditions, or modifications contained therein.
- c. Violates any provision of this chapter or any rule adopted by the commission pursuant to this chapter.

In addition to the civil penalty, the Commission may suspend or revoke the Certificate of Site Compatibility issued for the Sunflower Wind Energy Project for operation in violation of N.D.C.C., N.D.A.C, or provisions of the Commission's Order issuing the Certificate.

Sunflower Wind has requested an extension of the December 31, 2021, deadline for implementation of a functioning light-mitigating technology at the Sunflower Wind Energy Project and the Commission's decision on that request may affect this noncompliance.

Commission Staff asks that Sunflower provide written notice to the commission upon implementation of a functioning light-mitigating technology and, as soon as possible after such written notice, begin discussions with Staff regarding a resolution of the noncompliance.

You may contact me at 701-328-4077 with any questions concerning this letter.

Best regards,



Patrick Fahn
Director, Public Utilities Division