

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

**Sunflower Wind Project, LLC**  
**Wind Energy Conversion Facility – Stark & Morton**  
**Siting Application**

**Case No. PU-14-105**

**ORDER ON MOTION FOR EXTENSION**

**January 18, 2022**

**Preliminary Statement**

On June 25, 2014, the Commission adopted the Findings of Fact, Conclusions of Law, and Order, and granted Certificate of Site Compatibility Number 39 for the Sunflower Wind Project (Sunflower).

On November 12, 2021, Sunflower filed with the North Dakota Public Service Commission (Commission) a request for extension of the deadline for implementing light mitigation, from December 31, 2021, to June 30, 2022.

On December 1, 2021, the Commission issued a notice for public hearing on the application for extension in the above captioned case.

On January 10, 2022, the Commission held a public hearing as noticed.

**Discussion**

1. Sunflower is an independent power producer and subsidiary of Onward Energy Holdings, LLC.
2. Sunflower made its request for an extension based on technical feasibility considerations under North Dakota Century Code (N.D.C.C.) 49-22-16.4(3), and North Dakota Administrative Code 69-06-11-02(2), both which allow for an extension based on technical or economic feasibility considerations.
3. North Dakota Century Code (NDCC) § 49-22-16.4 was added in the 2017 Legislative Session and became effective August 1, 2017.

4. Under NDCC 49-22-16.4 the Commission may grant a waiver or extension of time based on technical or economic feasibility considerations after holding a public hearing.
5. Sunflower testified their request is based on technical considerations and did not provide economic feasibility considerations.
6. Prior to September 2021, Sunflower testified they were fully committed to LIDS being approved by the FAA in time, or the Vestas system having a single tower mounted radar system approved by the FAA.
7. In September 2021, Sunflower transitioned from the option of an Aircraft Detection Lighting System (ADLS) by Vestas, which was a turbine mounted radar system, seeking FAA approval for a tower mounted radar design. Vestas has not received FAA approval for their tower mounted design.
8. In September 2021 Sunflower testified they transitioned from Light Intensity Dimming System (LIDS). Sunflower testified that they were aware the Commission had denied an extension based on a request for LIDS in May after determining that LIDS would not receive FAA approval in the foreseeable future. Sunflower testified that Technostrobe, the manufacturer of LIDS, continued to assure them FAA approval would occur soon.
9. On September 11-12, 2021, Sunflower attended a local festival in Hebron, North Dakota, and received 42 signatures from locals, local landowners, and others who do not live in the immediate area supporting an extension for the installation of ADLS.
10. On November 12, 2021, Sunflower filed for an extension and as of January 10, 2021, Sunflower has selected Terma, a manufacturer of ADLS lighting, as their provider for ADLS technology but has not entered a signed contract with Terma as of January 10, 2022.
11. On January 10, 2022, Sunflower testified they have started the FAA application process but have not submitted the application to the FAA.
12. On January 10, 2022, Sunflower also testified the permitting and regulatory filings and acceptance would be completed by February 5, 2022.
13. On January 10, 2022, Sunflower testified that commissioning and completion of the installation would occur by June 30, 2022., and the system would be operational.
14. Seventeen facilities using the same available vendors and under the same deadline were able to install ADLS by the December 31, 2021, deadline. Sunflower had 4 years to install ADLS. Sunflower spent time waiting for the approval of LIDS, and the Vestas system, which were not yet approved. Sunflower knew that the Commission denied an extension for LIDS 4 months prior to September and continued to pursue the

LIDS option until September 2021. While obtaining 42 petition signatures supporting the extension shows Sunflower took steps to engage those affected by a delay in light mitigation installation, all of the above-mentioned reasons do not equate to a technical feasibility consideration acceptable to the Commission to grant an extension of the December 31, 2021, deadline.

**Order**

The Commission denies Sunflower Wind Project, LLC's request for an extension of the time to install a light-mitigating technology system at the Sunflower Wind Project.

**PUBLIC SERVICE COMMISSION**

		<b>Vacant</b>
<b>Randy Christmann</b> Commissioner	<b>Julie Fedorchak</b> Chair	