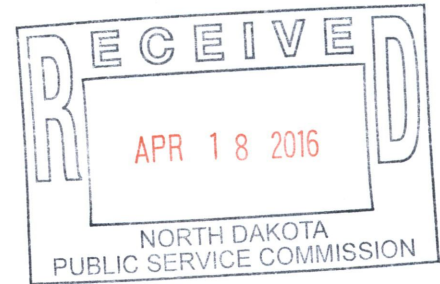


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April 18, 2016

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



Dear Mr. Nitschke:

In re: Brady Wind, LLC
Wind Energy Center
PSC Case No. PU-15-690
Our File No. 35-218-026

Please find enclosed 11 copies of the Findings of Fact, Conclusions of Law and Order in the above matter.

Please call should you have any questions.

Very truly yours,


Brian R. Bjella

bw
Enc.
cc: Patrick J. Ward
Zachary Pelham
Matthew T. Collins
Jerry Lein

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

Brady Wind, LLC
Wind Energy Conversion Facility – Stark County
Siting Application

Case No. PU-15-690

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER
DATED APRIL _____, 2016**

Appearances

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

Brian R. Bjella and Stephanie Dassinger, Attorneys at Law, Crowley Fleck, PLLP, 100 West Broadway, Suite 250, Bismarck, North Dakota 58501, on behalf of the Applicant, Brady Wind, LLC.

Zachary Pelham, Attorney at Law, Pearce Durick PLLC, 314 E. Thayer Ave., Bismarck, North Dakota 58502, Special Assistant Attorney General on behalf of the North Dakota Public Service Commission.

Patrick J. Ward, Administrative Law Judge, PO Box 1695, Bismarck, North Dakota 58502-1695.

Matthew T. Collins, Attorney at Law, Fabyanske, Westra, Hart & Thompson, 333 South Seventh Street, Suite 2600, Minneapolis, MN 55402, on behalf of Intervener Concerned Citizens of Stark County.

Preliminary Statement

On December 4, 2015, Brady Wind, LLC (“Brady Wind”) filed with the North Dakota Public Service Commission (“Commission”) an Application for a Certificate of Site Compatibility for a wind energy conversion project located in Stark County, North Dakota (“Project”). Brady also filed an application fee of \$100,000.00.

On January 20, 2016, the Commission deemed the Application complete and issued a Notice of Filing and Notice of Hearing, scheduling a public hearing for March 2, 2016, at 11:00 a.m. Mountain Time at the Dickinson City Hall, 99 2nd Street East, Dickinson, North Dakota 58601.

On February 12, 2016, Concerned Citizens of Stark County (“CCSC”) filed a Petition for Intervention. By Order Granting Petition to Intervene dated February 25,

2016, Administrative Law Judge Timothy J. Dawson granted CCSC's Petition to Appear as an intervener.

On February 23, 2016, CCSC filed a Motion for Continuance for the hearing scheduled for March 2, 2016. On February 25, 2016, the Commission granted the motion to intervene.

On February 25, 2016, the Commission issued its Notice of Continued Hearings indicating that the public hearing previously scheduled for March 2, 2016, is continued to March 30, 2016, at 8:00 a.m. at City Hall, 99 Second Street East, Dickinson, North Dakota 58601.

The issues to be considered at the hearing were:

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

On February 19, 2016, Brady Wind filed with the Commission its anticipated final layout.

On March 9, 2016, Brady Wind filed its Certification Relating to Order Provisions – Wind Energy Conversion Facility Siting, dated March 4, 2016, with accompanying Tree and Shrub Mitigation Specifications.

The public hearing was held as scheduled on March 30, 2016. Having allowed all interested persons an opportunity to be heard, and having heard, reviewed and considered all testimony and evidence presented, including late filed exhibits, the Commission makes the following findings:

Findings of Fact

1. Brady Wind, LLC is a Delaware limited liability company headquartered in Juno Beach, Florida, and is registered to do business in the State of North Dakota. Brady Wind, LLC is a wholly-owned, indirect subsidiary of NextEra Energy Resources, LLC.
2. Brady Wind proposes to construct a wind energy facility known as the Brady Wind Energy Center located in Stark County, North Dakota, being approximately

15 miles south of the city of Dickinson, North Dakota. At the request of the Commission, Brady Wind has reduced the Project area to include only the lands of participating landowners. As a result, the Project area consists of approximately 17,965 acres. Wind turbines will be placed throughout the Project area. Brady Wind has requested that the Project area, as depicted in Late Filed Exhibit No. 14, be designated as the site for the Project.

3. Brady Wind selected the proposed site for the Project based on a number of factors, including: the quality of a wind resource, landowners' support, suitable transmission interconnection capability, avoidance of environmental issues, compliance with the Commission's siting criteria; compliance with Stark County's zoning requirements, and economic considerations.
4. Section 49-22-16(4) of the North Dakota Century Code provides that a site shall not be designated that violates the rules of any state agency, and that compliance with an agency's rules shall be presumed if the agency fails to present its position with respect to the proposed facility at the public hearing. Federal, state and local departments, agencies and entities that were contacted include:
 - (a) Federal – U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, Federal Aviation Administration;
 - (b) State – North Dakota Aeronautic's Commission, North Dakota Department of Agriculture, North Dakota Department of Health, North Dakota Department of Transportation, North Dakota Department of Trust Lands, North Dakota State Water Commission, North Dakota Geological Survey, North Dakota Indian Affairs Commission, North Dakota Parks and Recreation Department, State Historical Society of North Dakota, and the North Dakota Game and Fish Department;
 - (c) Local – Stark County.
5. Agency consultations and comments are noted in the application, and in testimony presented at the public hearing. No objections to the Project were raised by any state or federal agencies, or local governmental entities.
6. 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. The Stark County Commission issued a Conditional Use Permit for the Project on December 22, 2015.

Project Design

7. The Project will have a name-plate generating capacity of approximately 150 megawatts ("MW"). The Project will consist of up to 87 turbines. Brady Wind

expects to use both General Electric ("GE") 1.715 MW Xle and GE 1.79 MW Xle wind turbine generators. Depending on turbine availability and economic considerations, among other factors, Brady Wind may select another turbine model.

8. The turbines have Supervisory Control and Data Acquisitions ("SCADA") communication technology to allow control and monitoring of the wind farm. The SCADA communications system permits automatic, independent operation and remote supervision, thus allowing the simultaneous control of many wind turbines.
9. The towers will be conical tubular steel with a hub height of up to 262 feet. The portion of the foundation that is above ground is 15 to 16 feet wide at the base of the tower. Each turbine will be grounded and shielded to protect against lightning strike.
10. At the base of each turbine, a step-transformer will be installed to step up the voltage to the power collection line voltage of 34.5 kV. The power from these transformers will be run through an underground collection system consisting of various sized buried cables that are generally located alongside the Project access roads. Collection lines will be buried 42 to 48 inches deep and will not affect farming equipment. At the point where the access and public roads meet, the collection system will continue as underground lines. All collection system cables will terminate at an on-site Project collector substation, which includes a power transformer to step up the voltage from 34.5kV to 230 kV and provides the necessary protection and control for interconnection to the transmission grid.
11. Associated facilities to be constructed within the Project area include access roads, electrical collection systems, an operations and maintenance building, a collection substation, and metrological towers. Brady Wind will also construct an approximately 19-mile, 230-kilovolt (kV) overhead transmission line to connect the Project to the Belfield to Rhame 230-kV transmission line, in Section 29 of Township 137 North, Range 98 West. The transmission line must be permitted separately and is the subject of North Dakota Public Service Commission Case No. PU-15-797.

The project substation will be located along 109th Avenue SW in the northwest quarter of Section 25 in Township 137 North, Range 96 West. It will be connected to the Belfield to Rhame Transmission Line via an approximately 19-mile 230-kV overhead transmission line.

12. The site for the Project was selected based on its wind resource, land-use patterns, and low presence of environmentally sensitive features. Part of the site selection process included consultation and coordination with a variety of community leaders and government officials to identify and either avoid or minimize concerns over siting.

13. Construction of the Project is expected to take approximately six months and cost an estimated \$250 million dollars.
14. Brady Wind anticipates that construction will start as early as May 2016, subject to permitting, road restrictions and weather.
15. All easements and other land rights necessary to build and operate the Project have been obtained.
16. Construction and operation of the Brady Wind Energy Center will conform to the requirements of the National Electric Safety Code.

Siting Criteria

17. 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 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 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.

Exclusion Areas

18. Less than 1% of the project area consists of prime farmland. Prime farmland has been avoided to the extent practical. The Commission finds that the prime farmland which may be disturbed by this energy conversion facility is of such small acreage as to be of negligible impact on agricultural production.
19. The eastern portion of the Project area is within the whooping crane migration corridor, but there is no designated critical habitat within the Project area.

Avoidance Areas

20. With respect to avoidance areas, historic farmsteads are present within the Project area. Direct impacts to all historic resources will be avoided by the Project footprint.
21. A very small portion of the project area will be within the 100-year flood plain. These areas are primarily within creek beds and will be avoided or permitted as required by Stark County. The Commission finds that Brady Wind will avoid flood plains to the extent practical, the area affected is of negligible impact, and impacts will be permitted by Stark County prior to construction.
22. Wetlands are present within the Project area, but permanent impacts to wetlands will be avoided and minimized as practicable.
23. Few woodland impacts are anticipated, and all tree removal and replacement will be conducted in accordance with the Commission's tree and shrub mitigation specifications.

Selection and Policy Criteria

24. With respect to selection criteria, the Project and associated facilities are expected to occupy and disturb up to 110 acres of land that will be permanently impacted by the Project. Brady Wind will continue to work with landowners to minimize land use disruptions from the facilities. No impacts to irrigation or quality of the agricultural land are anticipated.
25. Brady 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).
26. Brady Wind submitted evidence to demonstrate its commitment to maximize the benefits of the proposed energy conversion facility so far as possible so as to meet the Policy Criteria set forth in North Dakota Administrative Code § 69-06-08-01(6).
27. No significant adverse impact is foreseen on the ability of the affected areas 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, and area schools.

Cultural Resources (Archaeology and Architectural History)

28. During the pedestrian survey of the Survey Corridor, Tetra Tech documented 29 archaeological sites within the Project Area and 1 mile survey corridor and assessed impacts on 22 historic sites potentially eligible for the National Register within 2 miles of the Project Area. Brady Wind has designed the layout of the wind facility to avoid direct impacts to all cultural resources that are potentially eligible for listing on the National Register of Historic Places, sites that may be deemed culturally sensitive, or sites that have not been evaluated for National Register eligibility. Brady Wind will avoid direct impacts on any sites within or near the construction easement by fencing them during construction to ensure that they are not inadvertently disturbed.
29. Brady Wind has completed a Class I literature search and a Class III cultural resources inventory for both archaeological and architectural history resources in the current Project. Brady Wind has submitted its Class III cultural resources inventory report for archaeology to the North Dakota State Historic Preservation Office ("SHPO") and filed a copy of SHPO's response indicating concurrence. Brady Wind has also submitted its Class III cultural resources inventory report for architectural history resources for review, and will file a copy of SHPO's response when available prior to construction.
30. In the event that the Project layout changes from the layout provided in Late Filed Exhibit No. 14, Brady Wind will complete Class III cultural resource survey work for archaeology and architectural history resources for any previously un-surveyed areas, per SHPO's guidance; will submit the findings to the Commission and SHPO for review; and will obtain and file with the Commission a copy of SHPO's response prior to beginning construction in those areas.
31. The Project facilities will avoid all direct impacts to cultural resource sites and cultural resources are not expected to be impacted by the project.

Wetlands and Wildlife

32. Brady Wind has consulted with numerous local, state and federal agencies, which are identified in the Application. Brady Wind has engaged in consultation with the United States Fish and Wildlife Service ("USFWS") and North Dakota Game and Fish Department ("NDGFD"). No agencies have objected to construction of the Project.
33. A wetland survey report has been completed and submitted. Wetland delineations were conducted for the Project in October and November 2015. Brady Wind has indicated it is committed to making any design changes needed to avoid permanent impacts to wetlands as much as feasible. As a result, minimal impacts to jurisdictional wetlands are anticipated and any potential impacts are expected to qualify for coverage under Nationwide Permits 12 and 14 without requiring Pre-Construction Notification (PCN). In the event the Project layout changes, Brady Wind will complete a wetland delineation of any previously un-surveyed

areas as necessary. Brady Wind will minimize permanent wetland impacts from the Project to the extent practicable, and will obtain any permits required.

34. Brady Wind conducted an avian survey, Lek aerial survey, a raptor survey and a study of bat activity. No federally endangered, threatened or candidate species were recorded. No potentially occupied or occupied eagle nests are located within the corridor or in a one-mile buffer. The nearest occupied bald eagle nest is located approximately 3 miles east of the Project Area and the nearest occupied golden eagle nest is located approximately 2 miles south of the Project Area as indicated in Late Filed Exhibit 16. No significant impacts are anticipated.
35. Brady Wind performed an analysis of potential whooping crane habitat in the area of the wind energy facility and the transmission line. No confirmed whooping crane sightings have been documented.
36. Brady Wind conducted environmental studies of the Project area, and impacts to wildlife are anticipated to be minimal. Among the studies conducted were a bat desktop habitat assessment, bat acoustic monitoring, fall avian point-count and eagle use surveys, a ground-based raptor nest survey, and aerial and follow-up ground-based raptor next surveys. A desktop likelihood assessment for whooping crane was also conducted. Brady Wind will continue to coordinate with the USFWS to determine potential mitigation/minimization measures. Brady Wind will also prepare a Bird and Bat Conservation Strategy prior to operation of the Project, which will outline specific conservation methods.
37. Neither the USFWS nor the NDGFD have raised any objections to Brady Wind's proposed wildlife mitigation measures.

Noise and Shadow Flicker Studies

38. Brady Wind conducted a sound analysis for the Project. This analysis demonstrates that the sound levels for the Project will comply with the Commission's Avoidance Area requirement that sound levels within 100 feet of an inhabited residence or community building not exceed 50 dBA unless a waiver is obtained.
39. In the event Project modifications occur that are not covered by the current sound analysis, Brady Wind will conduct a sound analysis to ensure that the Project complies with the Commission's Avoidance Area sound requirement.
40. Brady Wind completed a shadow flicker study for the Project. There are only two occupied receptors with shadow flicker impacts greater than 30 hours per year. Both of these residences are owned by landowners that are participating in the Project and have granted an easement for shadow flicker effects on the property. Based upon the analysis, shadow flicker impacts in the Project area are expected

to be minor and well within acceptable ranges for avoidance of nuisance and/or health hazards.

41. In the event Project modifications occur that are not covered by the current shadow flicker analysis, Brady Wind will conduct a shadow flicker analysis to ensure that no currently occupied residences experience a shadow flicker impact of more than 30 hours per year, unless otherwise agreed by the homeowner.

Further Mitigative Measures

42. For purposes of this Project, Brady Wind has adopted setbacks established by Stark County, to the extent they are more restrictive than Commission regulations, with the exception of the Commission's road setbacks which are applicable to this Project. The Project will be constructed to comply with the Stark County setback of 2000' from turbines to currently occupied residences.
43. The Commission's setbacks applicable to the Project with respect to roads are one and one-tenth times the height of the turbine from interstate or state roadway right-of-way; and one and one-tenth times the height of the turbine plus seventy-five feet from the centerline of any county or maintained township roadway.
44. Brady Wind has agreed to implement the following eagle-related measures:
 - a. Requiring Project operations and maintenance personnel to implement a wildlife reporting program during the life of the Project that documents avian and other wildlife injuries or fatalities;
 - b. Requiring Project operations and maintenance personnel to adhere to a speed limit when driving within the Project area to minimize the potential for wildlife strikes resulting in carrion that could attract eagles to the Project area;
 - c. Training Project operations and maintenance personnel to be aware of eagle activity in the Project area and identify potential eagle attractants;
 - d. During operations, minimizing to the extent practicable Project equipment and material storage within the Project area outside of the Project operations and maintenance yard, as it can provide cover for eagle prey sources; and
 - e. Burying the Project's electrical collection system and constructing any Project-related overhead transmission lines owned by Brady Wind in accordance with Avian Power Line Interaction Committee Avian Protection Plan Guidelines.
45. Brady Wind will maintain groundwater protection and soil conservation practices to protect topsoil and adjacent resources, and to eliminate soil erosion during

construction and operation of the Project. Best Management Practices 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.

46. Subject to FAA approval, Brady Wind will use commercially reasonable efforts to install an Aircraft Detection and Lighting System or other technology suitable to the Commission on the Brady Wind project as soon as practicable after commercial operation, and in any event by no later than December 31, 2018.
47. As a result of testimony at the hearing, Brady Wind will not utilize turbines 82, 83 and 84 as identified at the public hearing, and instead activate alternative turbines.
48. Brady Wind will participate in the North Dakota one-call excavation notice system.
49. Brady Wind will file a decommissioning plan with the Commission prior to the commencement of operation of the Project, and decommissioning will be performed in accordance with all applicable rules and regulations.
50. Brady Wind will coordinate with local authorities and first responders regarding emergency response measures as a part of the Project commissioning activities.
51. Brady Wind made certain representations and covenants as contained in the Certification Relating to Order Provisions-Wind Energy Conversion Facility Siting executed by Brady Wind and filed with the Commission on March 9, 2016, which are 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 Brady Wind is an energy conversion facility as defined in North Dakota Century Code § 49-22-03(5).
3. The application submitted by Brady Wind 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 energy conversion facility.

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 Brady Wind, LLC for the construction, operation and maintenance of an energy conversion facility known as the Brady Wind Energy Center corresponding to the Project area depicted in Late Filed Exhibit No. 14.
3. Within the permitted area, Brady Wind is authorized to site and construct up to 150 megawatts within the designated area consisting of up to 87 wind turbines in proposed and alternate locations, as identified in Late Filed Exhibit No. 14, along with electric collection and communication lines, a project substation, access roads, an operations and maintenance building, an interconnection yard, along with other associated facilities as identified in the application and at the hearing.
4. Brady Wind shall file with the Commission a copy of the SHPO concurrence letter for architectural history when received.
5. If modifications are made to the Project layout, Brady Wind shall complete a Class III cultural resource survey for archeology and architectural history resources for any previously un-surveyed portions of the designated site affected by Project-related construction activities, in accordance with SHPO guidance; shall submit cultural resource findings to SHPO for review; and shall obtain and file a copy of SHPO's response with the Commission prior to beginning construction in said areas.
6. If modifications are made to the Project layout, Brady Wind shall complete a wetland delineation of any previously unsurveyed areas affected by Project-related activities, as necessary, and file the report with the Commission.

7. In the event Project modifications occur that are not covered by its current sound analysis, Brady Wind shall conduct a sound analysis and file a report with the Commission to ensure that the Project complies with the Commission's Avoidance Area Sound Requirement.
8. Brady Wind shall site Project turbines so as to meet a shadow flicker goal of 30 hours per year or less at each currently occupied residence, considering site-specific conditions, unless otherwise agreed to by the landowner. In the event Project modifications occur that are not covered by its current shadow flicker analysis, Brady Wind shall conduct a shadow flicker analysis and file a report with the Commission to ensure this requirement is met.
9. Brady Wind shall implement the eagle-related measures set forth in this Order.
10. The March 4, 2016, Certification Relating to Order Provisions – Energy Conversion Facility Siting, with accompanying Tree and Shrub Mitigation Specifications are incorporated by reference and attached to this Order.

PUBLIC SERVICE COMMISSION

Randy Christmann
Commissioner

Julie Fedorchak
Chairman

Brian P. Kalk
Commissioner