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November 29, 2016

VIA U.S. MAIL AND EMAIL

Mr. Darrell Nitschke
Executive Director
NORTH DAKOTA PUBLIC SERVICE COMMISSION
600 E. Boulevard Avenue, Dept. 408
Bismarck, ND 58505-0480
dnitschk@nd.gov



**Re: Glacier Ridge Wind Farm, LLC
PU-16-539**

Dear Mr. Nitschke:

On behalf of Glacier Ridge Wind Farm, LLC, we hereby submit its Motion to Amend the Application to Bifurcate the Project Area and Stay Decision on Phase II in the above-referenced Matter and Affidavit of Service.

Very truly yours,

STOEL RIVES LLP

A handwritten signature in blue ink, appearing to read "Andrew J. Pieper".

Andrew J. Pieper

Enclosure

cc: Julie Prescott (via email)
Zachary Pelham (via email)
Patrick Ward (via email)

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

Glacier Ridge Wind Farm Application for
Certificate of Site Compatibility

CASE NO. PU-16-539

**MOTION TO AMEND THE APPLICATION TO BIFURCATE THE PROJECT AREA AND
STAY DECISION ON PHASE II**

On July 15, 2016, Glacier Ridge Wind Farm, LLC (“Glacier Ridge”) filed an application requesting that the North Dakota Public Service Commission (“Commission”) issue a Certificate of Site Compatibility (“Certificate”) for a 300.15 MW Wind Farm in Barnes County, North Dakota (“Project”). The purpose of this motion by Glacier Ridge is to bifurcate the Project Area in the application into Phase I and Phase II and request the Commission stay, suspend and hold in abeyance any decision on Phase II at this time. Glacier Ridge makes this motion in accordance with North Dakota Admin. Code § 69-02-02-08 as a request to amend its application pursuant to North Dakota Admin. Code § 69-06-04-01(5) or, in the alternative, pursuant to North Dakota Admin. Code § 69-02-02-07.

On September 27, 2016, the Commission conducted a public hearing on Glacier Ridge’s application in Barnes County. In response to the Commission’s requests and subsequent discussions, Glacier Ridge submitted several late filed exhibits in this proceeding, including Late Filed Exhibit 29, a revised map of the Project Area.

This motion seeks to bifurcate the Project Area into separate phases of the Project (Phase I and Phase II). Glacier Ridge has separated those parcels over which it maintains full site control (Phase I) from those parcels where Glacier Ridge is in the process of renewing or finalizing its site control (Phase II). Attachment I provides more detailed information on the portion of Project now designated as Phase I. Other than this bifurcation based on current site control and the minor

technical adjustments and Project impact reductions associated therewith (detailed on Attachment I), no substantive changes are proposed to the overall Project or Project Area, and all material submitted with the application and evidence admitted at the hearing remain germane to both Phase I and Phase II.¹ To that end, Glacier Ridge respectfully requests that the Commission proceed to deliberate and approve Glacier Ridge's application with respect to Phase I of the Project Area, and hold in abeyance its decision on Phase II until such time as Glacier Ridge secures the site control over those remaining parcels and makes an affirmative request for approval of Phase II.

BACKGROUND

As stated in the application and described at the public hearing on September 27, 2016, a group of Barnes County farmers and landowners—organized as Peak Wind Development, LLC (“Peak”)—have worked for more than a decade on advancing the Project. In exchange for membership in Peak, the participating landowners agreed to contribute their land to the Project through individual contribution agreements.

In April 2008, Peak entered into a Joint Development Agreement (“JDA”) with Renewable Energy Systems Americas Inc. (“RES”), and, since that time, Peak and RES have jointly developed the Project. In addition to the JDA, RES and Peak signed a Limited Liability Company Agreement (“LLCA”) in September 2009, and that agreement still governs the day-to-day operations of Glacier Ridge.

Both the JDA and the LLCA require Peak to cause the landowners (i.e., Peak's members) to execute an Option and Easement Agreement (“Easement Agreement”) for land associated with the Project. Under the individual contribution agreements associated with Peak membership, participating landowners have also agreed to do the same. Peak members originally executed

¹ The one substantive change made is applicant's voluntary removal of Turbine 23 in order to reduce the shadow flicker at R055, which was projected at 30 hours per year (see Exhibit 6).

Easement Agreements in 2010 pursuant to NDCC §§ 17-04-01 and 17-04-03; however, those agreements expired in 2015. As a result, Peak has undertaken a process to renew or re-execute the Easement Agreements.

In its application to the Commission, Glacier Ridge estimated it would complete this renewal process by the end of July 2016. Due to changes in parcel ownership, deaths in the families of landowners, and other considerations, the process has taken longer than anticipated. Further, because the Project is based on a community model designed specifically to avoid any undue pressure on landowners, Glacier Ridge—and Peak—is committed to letting renewal negotiations naturally play out over time and as needed. As a result, some easements needed for collection lines and roads—particularly in the northern half of the Project Area—have not been fully executed or re-executed.

At the same time, Glacier Ridge applied for a Certificate covering the full Project as contemplated by Peak and RES, despite plans to stage development and construction over several years and begin with only limited construction in the southern portion of the Project Area in 2016. Glacier Ridge made this choice so that the full extent of the Project could be considered by the Commission and interested parties as a complete picture. In addition, Glacier Ridge conducted its required feasibility and environmental studies, as well as compiled all of the necessary application materials for the entire Project. Glacier Ridge acknowledges the Commission's concern regarding on-going negotiations over a few outstanding collection line and/or road easements in the Phase II area of the map, However, Glacier Ridge has secured all necessary easements and site control rights to commence work contemplated in the area depicted as Phase I.

Thus, in order to permit additional time for negotiations over outstanding property rights in Phase II areas, Glacier Ridge requests that the Commission stay its decision on Phase II of the Project but proceed to consider and approve Phase I as soon as possible. When all final easements

are in place for Phase II and Glacier Ridge is ready to proceed with the second phase of construction, Glacier Ridge will submit a motion or other filing as the Commission may request. To be clear, Glacier Ridge is not seeking any determination on the substance or procedure for the Phase II filing at this time. Upon the Commission granting this motion, Glacier Ridge's request for approval of a Certificate for the Project would be limited to Phase I only.

ANALYSIS

Glacier Ridge submits this motion to amend its application in order to bifurcate the Project Area into Phase I and Phase II and request that a decision on Phase II be stayed or held in abeyance at this time. The motion is submitted pursuant to North Dakota Admin. Code § 69-06-04-01(5), which provides:

The commission may allow an applicant to amend its application, consistent with North Dakota Century Code chapter 28-32 and North Dakota Administrative Code article 69-02, at any time during the pendency of an application. A rehearing may be required if the commission determines that a proposed amendment, which is received after the hearing process has been completed, materially changes the authority sought.

In keeping with its original intent, Glacier Ridge does not wish to substantively alter the contents of the application, the layout or the turbine locations such that additional technical review would be required for consideration of Phase I. Instead Glacier Ridge is simply requesting that the Commission authorize a subset of what has already been deliberated upon at the hearing in September and the two subsequent Commission work sessions. Glacier Ridge is not expanding or fundamentally changing the nature of the proposed Project or the authority sought in its application. Rather, it is seeking the same authority but only with respect to Phase I of the Project which has already been thoroughly reviewed.

Nor would the proposed bifurcation and suspension of a decision as to Phase II have any adverse consequences for interested stakeholders, given Phase I has already been fully reviewed in

the application, the hearing and the Commission work sessions. Further Glacier Ridge has long expressed its intent through this application and hearing process to reserve construction outside of the limited 2016 construction until 2018, meaning there is little to no practical effect on landowners participating in Phase II of the Project related to the delay in approving Phase II at this time. Given the foregoing, Glacier Ridge respectfully requests the Commission determine that no additional hearing be required to approve the amendments included in this motion. All relevant changed details are included in Attachment I and reflect the reductions to Project impacts corresponding to limiting current approval to Phase I of the Project.

Glacier Ridge argues in the alternative that the Commission approve this motion to bifurcate the Project Area and suspend any decision on Phase II consistent with North Dakota Admin. Code § 69-02-02-07 which provides:

The commission may, after notice to the other parties to a proceeding, allow any pleading to be amended and may permit any party affected by the amendment a reasonable time to prepare to meet the changed issues. If the amendment is to an application by a public utility for a rate increase based in whole or in part on the utility's revenue and profitability, and the amendment substantially changes the application, the change must be considered a new filing under North Dakota Century Code section 49-05-06.

As discussed above, both phases of the Project were fully briefed at the hearing and discussed further at two Commission work sessions that followed. The record is complete as to the requisite studies, surveys and analyses for both phases. This motion only seeks to remove from immediate consideration the Phase II portion of the Project that was not planned for construction until 2018. For the same reasons as discussed in detail above, there should not be any adverse impact on any interested stakeholder nor does the motion substantially change the application but rather seeks to hold in abeyance any request to approve Phase II of the Project at this time. Further there are no increases in rates at issue in this proceeding.

Glacier Ridge waives any right it may have to an oral argument and asks that the Commission grant the motion without any unnecessary additional process or delay. Specifically, Glacier Ridge respectfully requests that the Commission schedule a special hearing to consider this motion and approval of the Certificate for Phase I at its earliest convenience.

CONCLUSION

Glacier Ridge submits this motion in an effort to resolve outstanding concerns before the Commission and ensure that any bilateral negotiations with landowners in the area continue as needed and without undue influence by the outcome of the Commission's decision in this matter. In light of the foregoing, Glacier Ridge respectfully requests the Commission act on this motion and the corresponding decision to issue a Certificate for Phase I of the Project as quickly as possible. A swift decision on these matters will yield enough time to begin limited construction in this calendar year, a critical step to the Project's success and a goal of the landowners.

DATED this 29th day of November, 2016.

STOEL RIVES LLP

s/Andrew J. Pieper

Andrew J. Pieper (#07973)

Sara E. Bergan (*admitted pro hac vice*)

Sarah Johnson Phillips (*admitted pro hac vice*)

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**ATTORNEYS FOR GLACIER RIDGE
WIND FARM, LLC**

Attachment I:

Amendment to Glacier Ridge Application for Certificate of Site Compatibility

Glacier Ridge proposes to split into two phases the Project and the Project Area as originally depicted in Exhibit 2 and as revised based on Commission request in Late Filed Exhibit 29. The attached map takes the same Project Area footprint included in Late Filed Exhibit 29 and delineates a Phase I and Phase II. The corresponding motion by Glacier Ridge seeks to amend the application consistent with the details set forth herein and seeks approval exclusively for Phase I at this time. Glacier Ridge has secured executed site control agreements for all infrastructure proposed in Phase I, including the proposed substation. The proposed phasing of the Project minimizes any real or perceived pressure on landowners that have not yet finalized agreements for service roads and collection lines in Phase II, and alleviates any outstanding concerns with regard to site control.

Project Area Revisions: The table below lists the land sections included in Phase I.

County	Township	Range	Sections
Barnes County	140 N	57 W	2-5, 9, 11
Barnes County	141 N	56 W	7, 18
Barnes County	141 N	57 W	9, 10, 11-16, 21-28, 34-36

Phase I includes 52 planned turbines for a total of 179.4 MW, plus three alternate turbine locations. Additionally Glacier Ridge has elected to remove Turbine 23 from the layout because the voluntary waiver for shadow flicker predicted at 30 hours per year at Residence 55 is not yet executed. As shown in Figure 4-8 in the shadow flicker study (docket #42 and Exhibit 6), Turbine 23 is the primary contributor of the estimated 30 hours per year of shadow flicker at Residence 55. The removal of Turbine 23 reduces the shadow flicker at Residence 55. This change also results in a reduction of turbines designated for foundation excavation in December 2016 from 20 to 19.

In order to access the Project substation via property included in Phase I, the main collection line would be routed along the collection line corridors already established for Turbines 50, 51, 52, 53, 54, 58, and 59. Accordingly, the collection line between Turbines 54 and 59 has been shifted slightly to the north and its corridor narrowed in order to ensure that it is sited entirely on participating landowner property.² In addition, a collection line between Turbines 52 and 53 is added along the already established road corridor in order to fully connect this route. These modest adjustments are reflected on the attached map and are de minimis changes to the layout proposed in the original application, are of the type that would usually occur in the ordinary course of micro-siting a wind project, and are allowed and anticipated under the Project's

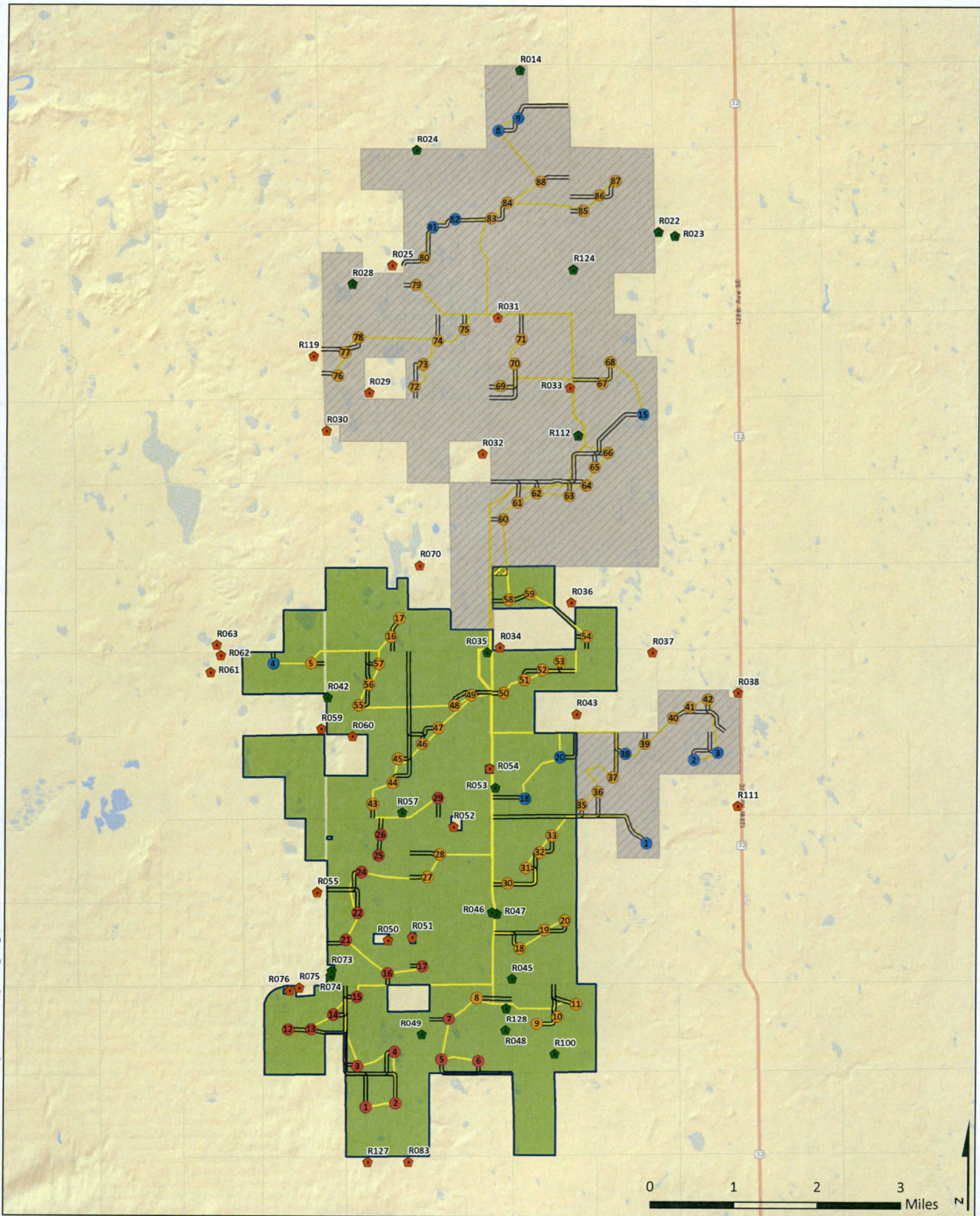
² Note that although it has not been included in the Project Area, the entire vertical, rectangular parcel between Turbine 53 and R036 on which this collection line is located is currently under easement.

easements. All affected landowners are participating landowners who, based on the layout included with the application and other discussions with Glacier Ridge, are already anticipating hosting these facilities.

Related Modifications:

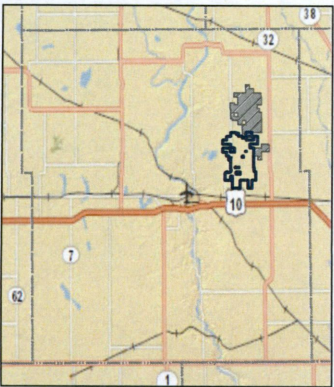
- As stated above, Phase I includes 52 planned turbines for a total of 179.4 MW, plus three alternates.
- The Project cost for Phase I is \$202 million.
- The Phase I Project Area consists of 13,325 acres.
- The estimated permanent footprint for Phase I is 56.5 acres, approximately 0.4 percent of the Phase I Project Area. This includes 10.4 acres for 52 turbines, 2 acres for the substation, and 18.2 miles (44.1 acres) of new service roads.
- The estimated permanent impact to prime farmland from construction of Phase I is approximately 41 acres (0.3 percent of the Phase I Project Area).
- There are no wind specific Exclusion Areas located in Phase I.
- The Class I Literature Review for archaeological resources was completed for the full project construction footprint and a 1-mile buffer and identified no previously recorded resources within the construction footprint. Five previously recorded archeological site leads were documented within 1-mile of the full project, four of which are located within 1-mile of Phase I.
- The Class I Literature Review completed for the full Project identified no architectural resources within the anticipated construction footprint; however, one property was identified within the 2-mile buffer around proposed turbine locations. That property is in Phase I and Glacier Ridge will avoid direct impacts on the property.
- The Class III Cultural Resource Inventory for archaeological resources within the anticipated construction footprint for Phase I identified one abandoned farmstead and two Euro-American artifact scatters. Avoidance was recommended for the abandoned farmstead and no avoidance was recommended for the two Euro-American artifact scatters.
- There is no change to the closest bald eagle nest (1,237 feet from the western boundary of Phase I and 1.6 miles from the nearest proposed turbine location). The two other bald eagle nests observed within 10 miles of the Project Area are to the northwest of the site and within 10 miles of Phase II only.

Phase II: As described in the motion, Glacier Ridge will re-apply to the Commission for approval of Phase II at a later time and once all uncertainties related to site control have been resolved. Phase II consists of the parcels east of Alternate Turbine 20, and parcels north of the proposed substation.



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Source: Map adapted from 2016 Bing Aerial, Barnes County, ND; Project data provided by RES Americas. Scale 1:90,000



- Project Area**
 - Proposed Project Area - Phase I
 - Proposed Project Area - Phase II
- Parcel Status**
 - Signed
- Proposed Project Facilities**
 - Planned Turbine
 - Planned 2016 PTC
 - Alternate Turbine
 - Planned Service Road
 - Planned Collection Line
 - Planned Substation and O&M Building
- Residences**
 - Participating
 - Not Participating

Glacier Ridge Wind Farm

Barnes County, North Dakota



AFFIDAVIT OF SERVICE

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Sharla R. Backer, of the City of Lonsdale, County of Rice in the State of Minnesota, being duly sworn on oath, deposes and says that on the 29th day of November, 2016, I served the following:

Motion to Amend the Application to Bifurcate the Project Area and Stay Decision on Phase II

on the following parties by mailing to each of them a copy thereof, enclosed in an envelope, postage pre-paid, and by depositing the same in the United States Mail, directed to said parties at their last known post office address as follows:

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Sharla R. Backer

Sharla R. Backer

Subscribed and sworn to before me
on this 29th day of November, 2016.

Cheryl A. Long

Notary Public

89718981.1 0061784-00033

