

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

**Aurora Wind Project, LLC**  
**345 kV Transmission Line – Williams & Mountrail**  
**Counties**  
**Siting Application**

**Case No. PU-18-351**

***PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER***

\_\_\_\_\_, 2019

**Appearances**

Commissioners Brian Kroshus, Julie Fedorchak, and Randy Christmann.

Mollie M. Smith, Fredrikson & Byron, P.A., 200 South 6th Street, Suite 4000, Minneapolis, MN 55402, on behalf of the Applicant, Aurora Wind Project, LLC.

Zachary Pelham, Special Assistant Attorney General, North Dakota Public Service Commission.

Timothy J. Dawson, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street – Suite 303, Bismarck, ND 58503, as Procedural Hearing Officer.

**Preliminary Statement**

On September 28, 2018, Aurora Wind Project, LLC (Aurora Wind) filed combined applications for a Corridor Certificate and Route Permit (Transmission Line Application) to construct a 345 kV electric transmission line from the proposed Wind Project (defined below) to Basin Electric's Tande Substation in Mountrail County, North Dakota (Transmission Line or Project).

On the same day, Aurora Wind also submitted an Application for a Certificate of Site Compatibility for a wind energy conversion facility (Wind Application) known as the Aurora Wind Farm Project (Wind Project) to be located in Williams County, North Dakota.

On January 9, 2019, the North Dakota Public Service Commission (Commission) consolidated the Wind and Transmission Line Applications for hearing; deemed both Applications complete conditioned upon receipt within 30 days of the hearing of (1) Maps showing final site plan with turbines, access roads, collector lines, transmission line structures, and all residential receptor points labeled; (2) Class III cultural resource

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survey reports or summaries showing areas surveyed and State Historical Society of North Dakota (SHSND) cultural site numbers recommended for avoidance; and (3) Wetland delineation reports; and issued a Notice of Filings and Notice of Consolidated Hearing, scheduling a public hearing for February 25, 2019, at 9:00 a.m. at Neset Consulting Service, 6844 State Hwy 40, Tioga, ND 58852. The Notice identified the following issues to be considered:

1. Will the location and operation of the proposed facilities produce minimal adverse effects on 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 impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

On January 24 and 25, 2019, Aurora Wind filed (1) a residence setback waiver; (2) Mountrail County Conditional Use Permit (Transmission Line); (3) Sound and Shadow Flicker Summary (with updated receptor maps); (4) Archaeological Summary Report; (5) Letter to SHPO; (6) Unanticipated Discovery Plan; (7) Historic-Age Non-Archaeological Resource Summary Report; (8) Wetlands and Waterbodies Technical Memorandum; (9) Avian Use Study Report: August 2017 – July 2018; (10) 2018 Acoustic Bat Monitoring Survey Summary; (11) Dakota Skipper Habitat Evaluation Report; and (12) Correspondence with U.S. Fish and Wildlife Service (USFWS).

On February 22, 2019, Aurora Wind filed (1) Signed Certification Relating to Order Provisions – Transmission Facility Siting, with accompanying Tree and Shrub Mitigation Specifications; (2) additional SHPO correspondence; (3) additional North Dakota Game, Fish, and Parks Department (NDGFP) correspondence and meeting notes; (4) North Dakota Department of Trust Lands (NDDTL) correspondence; (5) correspondence from Senator Rust; and (6) a sound analysis report.

On February 25, 2019, the public hearing was held.

Having allowed all interested persons an opportunity to be heard and having heard, reviewed, and considered all testimony and evidence presented, the Commission makes its:

## Findings of Fact

1. Aurora Wind is a Delaware limited liability company and is wholly-owned by Tradewind Energy, Inc. (Tradewind).

2. Aurora Wind is authorized to do business in the State of North Dakota, as evidenced by the Certificate of Good Standing issued by the North Dakota Secretary of State on October 1, 2018 (Case No. PU-18-354).

### Size, Type, and Preferred Location of Facility

3. Aurora Wind proposes to construct, own, and operate approximately 20 miles of a 345 kV electric transmission line and associated facilities in Williams and Mountrail Counties.

4. The Transmission Line would convey power from the planned Wind Project substation to the point of interconnection to the grid at the existing Basin Electric Power Cooperative Tande 345-kV Substation located in Mountrail County.

5. The proposed route for the Transmission Line is approximately 20 miles in length, with approximately 17 miles in Williams County and approximately three miles in Mountrail County. With a couple of exceptions, the Project Corridor is within a 150-foot wide corridor that aligns with the right-of-way acquired for the Project.

6. After filing the Application, Aurora Wind widened the Project Corridor and shifted the Project route slightly to the west in Sections 19 and 30, Township 158 N, Range 96 W, so that the Transmission Line right-of-way will be at least 500 feet from the residence identified as ID-7. The final Project Corridor being requested by Aurora Wind is shown on Hearing Exhibit 8.

7. The Project would be constructed using steel monopole structures, wood H-frame structures, or steel H-frame structures, with a span of between 600 and 900 feet, depending on final engineering design. Tangent structures will be wood or steel and will be directly embedded into the ground, with an overall foundation diameter of approximately four to 10 feet and embedded length of approximately 15 to 35 feet. The average aboveground height of the structures will range from 80 to 150 feet depending on final engineering design.

8. The Project will be constructed in compliance with the National Electrical Safety Code (NESC).

9. Within the Wind Project Area, the wind energy leases and easement agreements authorize construction of the Transmission Line. Outside of the Wind Project Area, Aurora Wind has secured separate transmission line easement agreements to the Tande Substation. With two exceptions, Aurora Wind has secured

all easements needed for the Transmission Line Project. One of the unsigned landowners within the Wind Project Area is also crossed by the proposed Transmission Line. That landowner has executed an Authorized Agent Form while the terms of the easement agreement are finalized and is aware of the Project Corridor and Project Route. The other is school trust land managed by NDDTL.

10. Aurora Wind intends commercial operations to begin once the Wind Project is complete, no later than the end of 2020.

#### Study of Preferred Location

11. Aurora Wind coordinated with the following federal, state, and local departments, agencies, and entities:

a. Federal – United States Department of the Air Force – Minot Air Force Base North Dakota; United States Department of the Army Corps of Engineers (USACE), North Dakota Regulatory Office; Federal Aviation Administration (FAA); United States Department of Commerce – National Telecommunications and Information Administration; USFWS.

b. State – North Dakota Aeronautics Commission (NDAC); North Dakota Department of Health; North Dakota Department of Trust Lands; North Dakota Game and Fish Department; North Dakota State Water Commission; North Dakota Industrial Commission – Oil and Gas Division; North Dakota Department of Transportation; North Dakota Geological Survey; State Historical Society of North Dakota; and

c. Local – Mountrail County; Williams County; City of Tioga, North Dakota.

12. Agency consultations and comments are noted in the Application, exhibits, and testimony presented at the public hearing. No state or federal agency or local government entity has indicated that it opposes the Project.

13. Aurora Wind has obtained a conditional use permit for the Wind Project and Transmission Line from Williams County, and a conditional use permit for the Transmission Line from Mountrail County. Aurora Wind will comply with applicable county zoning ordinance requirements.

14. Aurora Wind analyzed a Study Area for the Project that is approximately one mile wide (0.5 mile on either side of the Project Route) and encompasses approximately 12,915 acres.

15. Aurora Wind performed a desktop evaluation of the Study Area for soils, land use, wetlands and waterbodies, trees and shrubs, and protected species and critical habitats.

16. Aurora Wind conducted a Class I Literature Review and a Class III Intensive Cultural Resources Pedestrian Survey. The area of potential effect (APE) for the Class III Pedestrian Survey was defined as a ground surface area that has the potential to be disturbed by any construction or installed activities associated with the Project or the Wind Project.

17. Aurora Wind conducted natural resource field surveys within the Project Corridor, which gathered information on land use and vegetation, wetlands and waterbodies, trees and shrubs, and wildlife, including protected species and critical habitats.

18. Aurora Wind conducted avian use studies, raptor nest surveys, an eagle risk assessment, a sharp-tailed grouse lek survey; acoustic bat study; whooping crane habitat assessment; Class III cultural resource inventory survey; Class II architectural history investigation; and Dakota Skipper habitat evaluation.

19. Aurora Wind also undertook outreach to Native American Tribes regarding potential cultural resources.

#### Siting Criteria

20. The Commission has established criteria pursuant to the North Dakota Century Code § 49-22-05.1 to guide the Commission in evaluating the suitability of granting a Certificate of Corridor Compatibility and Route Permit. The criteria, as set forth in North Dakota Administrative Code § 69-06-08-02, are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

21. Aurora Wind evaluated the Project with respect to the Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

22. A transmission facility route must not be sited within an Exclusion Area. Exclusion Areas may be located within the corridor, but at no given point may such an area or areas encompass more than 50 percent of the corridor unless there is no reasonable alternative.

23. There is no Exclusion Areas present within the Project Corridor.

24. An Avoidance Area is a geographical area that may not be considered in the routing of a transmission facility unless the applicant shows that, under the circumstances, there is no reasonable alternative. In determining whether an Avoidance Area should be designated for a transmission 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 alternative routes.

25. Areas within 500 feet of an inhabited rural residence are designated as an Avoidance Area. Pursuant to North Dakota Century Code § 49-22-05.1(2), the 500-foot Avoidance Area for an inhabited rural residence may be waived by the owner of the residence in writing.

26. One inhabited residence is located within 500 feet of the Project Route. Aurora Wind has obtained a waiver from this landowner and filed a copy of the waiver with the Commission.

27. Historical resources which are not specifically designated as exclusion or avoidance areas are present within the Project Corridor and Project Route. Based on the Class I and Class III studies conducted for the Project, no archaeological sites recommended for National Register of Historic Places (NRHP) eligibility are present within the Project Corridor.

28. No additional Avoidance Areas are located within the Project Corridor.

29. In accordance with the Commission's Selection Criteria, a transmission facility shall be approved only if it is determined that any significant adverse effects that will result from the location, construction, and operation of the facility as they relate to the Selection Criteria will be at an acceptable minimum, or will be managed and maintained at an acceptable minimum.

30. Permanent impacts from the Project will be approximately 0.08 acres.

31. There are up to 10 areas along the Project Route where Aurora Wind may need to remove trees and shrubs up to 150 feet wide in order to meet NESC requirements for safe operation of the Transmission Line. Aurora Wind indicated that it will use trimming, if sufficient, rather than removal, and will also minimize the width to the extent possible.

32. Aurora Wind has analyzed the impacts of the Project in relation to all relevant Selection Criteria. No significant adverse impact will result from the location, construction, and operation of the Project.

33. In accordance with the Commission's Policy Criteria, the Commission may give preference to an applicant that will maximize the benefits that result from the adoption of various policies designated within the Commission's Policy Criteria.

34. Aurora Wind has demonstrated its commitment to maximize the benefits of the Project to meet the Commission's Policy Criteria by designing and locating the

Project in a manner as to maximize operational efficiency and economic benefits while minimizing Project impacts.

#### Mitigation to Minimize Impact

35. Aurora Wind has agreed to certain steps to mitigate the impact of the Project as indicated by its February 19, 2019 execution of the Certification Relating to Order Provisions with accompanying Tree and Shrub Mitigation Specifications, which has been filed with the Commission.

36. Aurora Wind will use best management practices to minimize impacts on ground and surface water, and to prevent soil erosion. Erosion control measures required under the National Pollution Discharge Elimination System permit and the associated Stormwater Pollution Prevention Plan will be implemented. Construction of the Project is not anticipated to have a significant adverse impact on surface or ground water resources or soils. Temporarily disturbed areas will be restored and reseeded.

37. The Transmission Line will be marked with bird flight diverters.

38. Aurora Wind will participate in the North Dakota One-Call Excavation Notice System.

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. Aurora Wind is a utility as defined in North Dakota Century Code § 49-22-03(14).

3. The Project is a transmission facility as defined by North Dakota Century Code Section 49-22-03(6).

4. The Application submitted by Aurora Wind meets the corridor and route evaluation criteria required by North Dakota Century Code Chapter 49-22.

5. The location, construction, and operation of the Project will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.

6. The location, construction, and operation of the Project are compatible with environmental preservation and the efficient use of resources.

7. The Project 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.

From the foregoing Findings of Fact and Conclusions of Law, the Commission now makes its:

### **Order**

The Commission orders:

1. Aurora Wind shall construct and operate the facility in accordance with the Commission's Findings of Fact.

2. Certificate of Corridor Compatibility No. \_\_\_ is issued to Aurora Wind designating a corridor for the construction, operation, and maintenance of the Project and associated facilities in Williams and Mountrail Counties, North Dakota, as identified in Hearing Exhibit 8.

3. Route Permit No. \_\_\_ is issued to Aurora Wind designating a route in Williams and Mountrail Counties, North Dakota, for the construction and operation of an approximately 20-mile 345 kV transmission line. The designated route for this purpose is as identified in Hearing Exhibit 8.

4. Inclusion of any portions of the Transmission Line right-of-way not currently under lease and/or easement in the designated route for the Project is conditioned upon Aurora Wind obtaining the requisite lease and/or easement agreements with the owners of said parcels.

5. The February 19, 2019 Certification Relating to Order Provisions – Transmission Facility Siting, with accompanying Tree and Shrub Mitigation Specifications (Hearing Exhibit No. 13) is incorporated by reference and attached to this Order. Aurora Wind is authorized to clear cut an area of up to 150 feet wide at up to 10 locations along the designated route in order to meet NESC requirements for safe operation of the Transmission Line.

6. To the extent there are any conflicts or inconsistencies between Aurora Wind's Application and the Certification, the Certification provisions control.

### **PUBLIC SERVICE COMMISSION**

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**Randy Christmann**  
Commissioner

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**Brian Kroshus**  
Chairman

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**Julie Fedorchak**  
Commissioner