



Public Service Commission

State of North Dakota

COMMISSIONERS

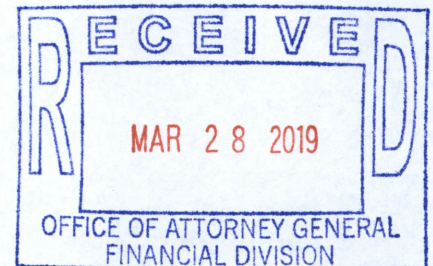
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28 March 2019

The Honorable Wayne Stenehjem
North Dakota Attorney General
State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505-0040

Re: Proposed Amendments to Administrative Rules
PSC Case No. PU-19-36



Dear Attorney General Stenehjem:

Enclosed please find proposed amendments to the North Dakota Administrative Code by the North Dakota Public Service Commission. In accordance with N.D.C.C. § 28-32-14, the North Dakota Public Service Commission requests your examination of these rules as to their legality so they may be considered for formal adoption and publication in the North Dakota Administrative Code.

Enclosed for purposes of review is a copy of each of the following:

- The 27 March 2019 Public Service Commission Order Submitting Rules to Attorney General, with the final proposed rules attached. The order summarizes the written and oral comments received, the Commission's consideration of the comments, and the Commission's conclusions. The rules are the same as those originally proposed;
- The 6 February 2019 Commission Motion proposing rules, with rules as originally proposed.
- Full Notice of Intent to Amend Administrative Rules;
- Abbreviated Notice of Intent to Amend Administrative Rules;
- Affidavit of Publication from the North Dakota Newspaper Association;
- A copy of one of the actual notices, as published (others are available if you want them);
- North Dakota Newspaper Association invoice showing the names of the newspapers in which the abbreviated Notice was published;
- A copy of the cover letter filing the Notice and Administrative Rules with the Legislative Council, with the filing acknowledgment;
- A statement or analysis for each rule case regarding the required regulatory analysis and takings assessments, small entity regulatory analyses, and economic impact statement and taking assessments;

The Honorable Wayne Stenehjem

27 March 2019

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- Testimony from the public hearing and other written comments received; and

The amendments are not a result of emergency rulemaking. Amendments to Section 69-06-08-01 do not implement any recently enacted legislation. A fiscal note was not required because these rules have no fiscal effect.

Thank you for your consideration of the rules. If you have any questions please do not hesitate to call or email.

Best regards,



John Schuh
Legal Counsel

enclosures

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Energy Conversion Facility Siting Criteria
Rulemaking**

Case No. PU-19-36

ORDER SUBMITTING RULES TO ATTORNEY GENERAL

March 27, 2019

Appearances

Commissioners Brian Kroshus, Julie Fedorchak, and Randy Christmann.

Preliminary Statement

On February 6, 2019, the North Dakota Public Service Commission (Commission) issued a formal Notice of Intent to Amend Administrative Rules and Notice of Public Hearing and Abbreviated Notice of Intent to Amend Administrative Rules and Notice of Public Hearing, proposing to amend section 69-06-08-01 of the North Dakota Administrative Code.

Also on February 6, 2019, Public Service Commission Staff filed statements regarding the required regulatory analysis, small entity analysis, and takings assessments.

On February 12, 2019, the Commission forwarded the notices to the Legislative Council for publication at least 30 days in advance of the hearing.

The Abbreviated Notice was published once in each of the 52 official county newspapers in the state during the weeks of February 13 through February 22, 2019.

On March 13, 2019, the Commission held the public hearing as noticed, beginning at 1:30 p.m., CST, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota.

The Commission allowed, after the conclusion of the rulemaking hearing, a comment period until March 25, 2019, during which the Commission received and considered data, views, or written or oral comments concerning the proposed rulemaking as part of the rulemaking record.

The proposed amendments are summarized as follows:

Public Utilities – Section 69-06-08-01 – Energy Conversion Facility Siting Criteria.

The Commission is proposing to amend North Dakota Administrative Code section 69-06-08-01 to remove prime and unique farmland, and irrigated land from designation as exclusion areas for the siting of an energy conversion facility, and to clarify additional exclusion areas for a wind energy conversion facility.

Public Hearing and Comments

Written and oral comments by Patrick Fahn of Commission staff were received at the hearing. During the hearing, oral comments were submitted by Bruce Johnson from the 5th Civil Engineer Squadron of the Minot Air Force Base.

Prior to the hearing, written comments were submitted by Geronimo Energy (Geronimo) and Jeffrey Olsen. After the hearing, Geronimo submitted an additional filing containing comments from Marvin Thorson, Kathryn Waxler, Russell Ruliffson, Michael D. Johnson, and Duane Dows. Mark Mahoney of the Department of Defense also provided follow-up comments to the testimony provided by Bruce Johnson during the hearing.

All comments were reviewed and considered. The comments of Mr. Johnson and Mr. Mahoney are considered beyond the scope of the current rulemaking. However, Staff recorded these suggestions to consider for future rulemaking.

North Dakota Administrative Code section 69-06-08-01(1) provides a list of geographical areas that must be excluded in consideration of a site for an energy conversion facility. Prime farmland and unique farmland are currently exclusion areas, however, if the commission finds that the removal for the life of the facility is of such small acreage as to be of negligible impact on agricultural productions, this exclusion does not apply. Irrigated land is also currently an exclusion area.

North Dakota Administrative Code section 69-06-08-01(2) provides additional exclusion areas that must be excluded in the consideration of a site for a wind energy conversion facility.

The Director of Public Utilities, Patrick Fahn, testified that the proposed amendments will delete prime farmland, unique farmland, and irrigated land from the list of exclusion areas. The amendments are intended to allow flexibility in the siting process and does not eliminate commission consideration of a project's effects on agricultural production, family farms and ranches, land economically suited for irrigation, and agricultural quality of cropland; which are selection criteria under Section 69-06-08-01(5). Mr. Fahn also testified that the Commission is proposing to amend Subsection 2 of Section 69-06-08-01 to provide more clarity for additional exclusion areas for wind energy conversion facilities. The exclusion areas are clarified as one and one-tenth times the height of the turbine from "the nearest edge of an interstate or state roadway right of way,

from the nearest edge of a railroad right of way and from the nearest edge of a 115 kV or higher transmission right of way.”

Geronimo provided comments in support of the proposed amendments to remove prime farmland, unique farmland, and irrigated land from the list of areas that must be excluded from consideration of a site. Geronimo submitted that renewable projects provide opportunity for landowners to diversify their income and that they are voluntary agreements to develop their land.

In its additional filing, Geronimo reiterated its comments and attached letters of landowners in support of the rule change. All of the attached letters were from Cass County landowners and expressed support for landowner’s rights and the proposed rule changes.

Jeffrey R. Olsen provided comments in opposition to removing prime farmland, unique farmland, and irrigated land from consideration in the siting criteria for energy conversion facilities. Mr. Olsen expressed concern that out-of-state interests will take advantage of cash-strapped farmers to sign away productive land with lease agreements of 50 years or more, encourage the stripping of landscape and cover, and plow and drain natural prairie potholes and nesting areas. Mr. Olsen encouraged adopting stricter rules, some of which were beyond the scope of the rulemaking, but also encouraged preventing the visual impact and impact to relationships and the well-being of neighbors.

In consideration of the Comments received, the Commission recognizes the need for balance when it comes to the siting of infrastructure. With commercial-scale energy development, there can be competing interests between the rights of the developing property owner, interests of the developing company, environmental concerns, and the welfare of nearby neighbors. The proposed rulemaking does not change exclusion and avoidance areas with an environmental impact. It also does not prevent Commission consideration of effects on agricultural production, land suitable for irrigation, agricultural quality of cropland, and effects on family farms and ranches. The proposed rulemaking allows the flexibility to consider a project while retaining the authority to address the concerns through the siting process.

The Commission received no further comments regarding this section and the Commission proposes to adopt this amendment without revisions.

Discussion

Having reviewed the proposed rules, and the testimony and comments received, the Commission finds good cause for submitting the proposed rules, attached to and made a part of this order, to the Attorney General for an opinion as to legality.

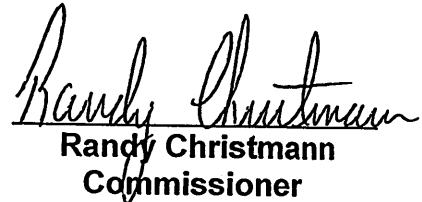
Order

The Commission orders the proposed revision to section 69-06-08-01 to the North Dakota Administrative Code attached to and made a part of this order, be submitted to the Attorney General for an opinion that the rules are approved as to legality.

PUBLIC SERVICE COMMISSION


Julie Fedorchak
Commissioner


Brian Kroshus
Chairman


Randy Christmann
Commissioner

**CHAPTER 69-06-08
CRITERIA**

Section	
69-6-8-1	Energy Conversion Facility Siting Criteria
69-6-8-2	Transmission Facility Corridor and Route Criteria

69-06-08-01. Energy conversion facility siting criteria.

The following criteria must guide and govern the preparation of the inventory of exclusion and avoidance areas, and the site suitability evaluation process.

1. **Exclusion areas.** The following geographical areas must be excluded in the consideration of a site for an energy conversion facility.
 - a. Designated or registered national: parks; memorial parks; historic sites and landmarks; natural landmarks; historic districts; monuments; wilderness areas; wildlife areas; wild, scenic, or recreational rivers; wildlife refuges; and grasslands.
 - b. Designated or registered state: parks; forests; forest management lands; historic sites; monuments; historical markers; archaeological sites; grasslands; wild, scenic, or recreational rivers; game refuges; game management areas; management areas; and nature preserves.
 - c. County parks and recreational areas; municipal parks; parks owned or administered by other governmental subdivisions; hardwood draws; and enrolled woodlands.
 - ~~d. Prime farmland and unique farmland, as defined by the land inventory and monitoring division of the soil conservation service, United States department of agriculture, in 7 C.F.R. part 657; provided, however, that if the commission finds that the prime farmland and unique farmland 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 productions, this exclusion does not apply.~~
 - ~~e. Irrigated land.~~
 - f. Areas critical to the life stages of threatened or endangered animal or plant species.
 - g. Areas where animal or plant species that are unique or rare to this state would be irreversibly damaged.
 - h. Areas within one thousand two hundred feet of the geographic

center of an intercontinental ballistic missile (ICBM) launch or launch control facility.

2. **Additional exclusion areas for wind energy conversion facilities.** The following geographical areas must be excluded in the consideration of a site for a wind energy conversion facility:

a. Areas within:

- (1) One and one-tenth times the height of the turbine from the nearest edge of an interstate or state roadway right of way;
- (2) One and one-tenth times the height of the turbine plus seventy-five feet from the centerline of any county or maintained township roadway;
- (3) One and one-tenth times the height of the turbine from the nearest edge of any a railroad right of way;
- (4) One and one-tenth times the height of the turbine from a the nearest edge of a one hundred fifteen kilovolt or higher transmission line right of way; and
- (5) One and one-tenth times the height of the turbine from the property line of a nonparticipating landowner and three times the height of the turbine from an inhabited rural residence of a nonparticipating landowner, unless a variance is granted. A variance may be granted if an authorized representative or agent of the permittee, the nonparticipating landowner, and affected parties with associated wind rights file a written agreement expressing all parties' support for a variance to reduce the setback requirement in this subsection. A nonparticipating landowner is a landowner that has not signed a wind option or an easement agreement with the permittee of the wind energy conversion facility as defined in North Dakota Century Code chapter 17-04.

3. **Avoidance areas.** The following geographical areas may not be approved as a site for an energy conversion 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 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 sites. Economic considerations alone will not justify approval of these areas. A buffer zone

of a reasonable width to protect the integrity of the area must be included. Natural screening may be considered in determining the width of the buffer zone.

- a. Historical resources which are not designated as exclusion areas.
 - b. Areas within the city limits of a city or the boundaries of a military installation.
 - c. Areas within known floodplains as defined by the geographical boundaries of the hundred-year flood.
 - d. Areas that are geologically unstable.
 - e. Woodlands and wetlands.
 - f. Areas of recreational significance which are not designated as exclusion areas.
4. **Additional avoidance areas for wind energy conversion facilities.** A wind energy conversion facility site must not include a geographic area where, due to operation of the facility, the sound levels within one hundred feet of an inhabited residence or a community building will exceed fifty dBA. The sound level avoidance area criteria may be waived in writing by the owner of the occupied residence or the community building.
5. **Selection criteria.** A site may be approved in an area only when it is demonstrated to the commission by the applicant that any significant adverse effects resulting from the location, construction, and operation of the facility in that area as they relate to the following, will be at an acceptable minimum, or that those effects will be managed and maintained at an acceptable minimum. The effects to be considered include:
- a. The impact upon agriculture:
 - (1) Agricultural production.
 - (2) Family farms and ranches.
 - (3) Land which the owner demonstrates has soil, topography, drainage, and an available water supply that cause the land to be economically suitable for irrigation.
 - (4) Surface drainage patterns and ground water flow patterns.

- (5) The agricultural quality of the cropland.
 - b. The impact upon the availability and adequacy of:
 - (1) Law enforcement.
 - (2) School systems and education programs.
 - (3) Governmental services and facilities.
 - (4) General and mental health care facilities.
 - (5) Recreational programs and facilities.
 - (6) Transportation facilities and networks.
 - (7) Retail service facilities.
 - (8) Utility services.
 - c. The impact upon:
 - (1) Local institutions.
 - (2) Noise-sensitive land uses.
 - (3) Light-sensitive land uses.
 - (4) Rural residences and businesses.
 - (5) Aquifers.
 - (6) Human health and safety.
 - (7) Animal health and safety.
 - (8) Plant life.
 - (9) Temporary and permanent housing.
 - (10) Temporary and permanent skilled and unskilled labor.
 - d. The cumulative effects of the location of the facility in relation to existing and planned facilities and other industrial development.
6. **Policy criteria.** The commission may give preference to an applicant that

will maximize benefits that result from the adoption of the following policies and practices, and in a proper case may require the adoption of such policies and practices. The commission may also give preference to an applicant that will maximize interstate benefits. The benefits to be considered include:

- a. Recycling of the conversion byproducts and effluents.
- b. Energy conservation through location, process, and design.
- c. Training and utilization of available labor in this state for the general and specialized skills required.
- d. Use of a primary energy source or raw material located within the state.
- e. Not relocating residents.
- f. The dedication of an area adjacent to the facility to land uses such as recreation, agriculture, or wildlife management.
- g. Economies of construction and operation.
- h. Secondary uses of appropriate associated facilities for recreation and the enhancement of wildlife.
- i. Use of citizen coordinating committees.
- j. A commitment of a portion of the energy produced for use in this state.
- k. Labor relations.
- l. The coordination of facilities.
- m. Monitoring of impacts.
- n. A commitment to install lighting mitigation technology for wind energy conversion facilities subject to commercial availability and federal aviation administration approval.

History: Amended effective August 1, 1979; July 1, 2006; April 1, 2013; July 1, 2017; July 1, 2018.

General Authority: NDCC 28-32-02, 49-22-18

Law Implemented: NDCC 49-22-05.1, 49-22.1-03

69-06-08-02. Transmission facility corridor and route criteria.

The following criteria must guide and govern the preparation of the inventory of exclusion and avoidance areas, and the corridor and route suitability evaluation process. Exclusion and avoidance areas may be located within a corridor, but at no given point may such an area or areas encompass more than fifty percent of the corridor width unless there is no reasonable alternative.

1. **Exclusion areas.** The following geographical areas must be excluded in the consideration of a route for a transmission facility. A buffer zone of a reasonable width to protect the integrity of the area must be included. Natural screening may be considered in determining the width of the buffer zone.
 - a. Designated or registered national: parks; memorial parks; historic sites and landmarks; natural landmarks; monuments; and wilderness areas.
 - b. Designated or registered state: parks; historic sites; monuments; historical markers; archaeological sites; and nature preserves.
 - c. County parks and recreational areas; municipal parks; and parks owned or administered by other governmental subdivisions.
 - d. Areas critical to the life stages of threatened or endangered animal or plant species.
 - e. Areas where animal or plant species that are unique or rare to this state would be irreversibly damaged.
 - f. Areas within one thousand two hundred feet of the geographic center of an intercontinental ballistic missile (ICBM) launch or launch control facility.
 - g. Areas within thirty feet on either side of a direct line between intercontinental ballistic missile (ICBM) launch or launch control facilities to avoid microwave interference.
2. **Avoidance areas.** The following geographical areas 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 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. Economic considerations alone will not justify approval of these areas. A

buffer zone of a reasonable width to protect the integrity of the area will be included unless a distance is specified in the criteria. Natural screening may be considered in determining the width of the buffer zone.

- a. Designated or registered national: historic districts; wildlife areas; wild, scenic, or recreational rivers; wildlife refuges; and grasslands.
 - b. Designated or registered state: wild, scenic, or recreational rivers; game refuges; game management areas; management areas; forests; forest management lands; and grasslands.
 - c. Historical resources which are not specifically designated as exclusion or avoidance areas.
 - d. Areas which are geologically unstable.
 - e. Within five hundred feet [152.4 meters] of a residence, school, or place of business. This criterion shall not apply to a water pipeline transmission facility.
 - f. Reservoirs and municipal water supplies.
 - g. Water sources for organized rural water districts.
 - h. Irrigated land. This criterion shall not apply to an underground transmission facility.
 - i. Areas of recreational significance which are not designated as exclusion areas.
3. **Selection criteria.** A corridor or route shall be designated only when it is demonstrated to the commission by the applicant that any significant adverse effects which will result from the location, construction, and maintenance of the facility as they relate to the following, will be at an acceptable minimum, or that those effects will be managed and maintained at an acceptable minimum. The effects to be considered include:
- a. The impact upon agriculture:
 - (1) Agricultural production.
 - (2) Family farms and ranches.
 - (3) Land which the owner can demonstrate has soil, topography, drainage, and an available water supply that cause the land to be economically suitable for irrigation.

- (4) Surface drainage patterns and ground water flow patterns.
- b. The impact upon:
 - (1) Sound-sensitive land uses.
 - (2) The visual effect on the adjacent area.
 - (3) Extractive and storage resources.
 - (4) Wetlands, woodlands, and wooded areas.
 - (5) Radio and television reception, and other communication or electronic control facilities.
 - (6) Human health and safety.
 - (7) Animal health and safety.
 - (8) Plant life.
- 4. **Policy criteria.** The commission may give preference to an applicant that will maximize benefits that result from the adoption of the following policies and practices, and in a proper case may require the adoption of such policies and practices. The commission may also give preference to an applicant that will maximize interstate benefits. The benefits to be considered include:
 - a. Location and design.
 - b. Training and utilization of available labor in this state for the general and specialized skills required.
 - c. Economies of construction and operation.
 - d. Use of citizen coordinating committees.
 - e. A commitment of a portion of the transmitted product for use in this state.
 - f. Labor relations.
 - g. The coordination of facilities.
 - h. Monitoring of impacts.

- i. Utilization of existing and proposed rights of way and corridors.
- j. Other existing or proposed transmission facilities.

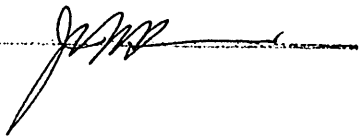
History: Amended effective August 1, 1979; January 1, 1982; February 1, 1995; July 1, 2006; April 1, 2013.

General Authority: NDCC 49-22-18

Law Implemented: NDCC 49-22-05.1

APPROVED

DATE: 6 Feb. 2019



STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

MOTION

February 6, 2019

Public Service Commission
Energy Conversion Facility Siting Criteria
Rulemaking

Case No. PU-19-36

I move the Commission propose revisions to the North Dakota Administrative Code, and issue a Notice of Intent to Amend Administrative Rules and Notice of Public Hearing and an abbreviated Notice of Intent to Amend Administrative Rules and Notice of Public Hearing for publication in each official county newspaper throughout the state as required by law, in Public Service Commission, Energy Conversion Facility Siting Criteria, Rulemaking, Case No. PU-19-36.

Section 69-06-08-01 Energy Conversion Facility Siting Criteria

JS

**CHAPTER 69-06-08
CRITERIA**

Section	
69-6-8-1	Energy Conversion Facility Siting Criteria
69-6-8-2	Transmission Facility Corridor and Route Criteria

69-06-08-01. Energy conversion facility siting criteria.

The following criteria must guide and govern the preparation of the inventory of exclusion and avoidance areas, and the site suitability evaluation process.

1. **Exclusion areas.** The following geographical areas must be excluded in the consideration of a site for an energy conversion facility.
 - a. Designated or registered national: parks; memorial parks; historic sites and landmarks; natural landmarks; historic districts; monuments; wilderness areas; wildlife areas; wild, scenic, or recreational rivers; wildlife refuges; and grasslands.
 - b. Designated or registered state: parks; forests; forest management lands; historic sites; monuments; historical markers; archaeological sites; grasslands; wild, scenic, or recreational rivers; game refuges; game management areas; management areas; and nature preserves.
 - c. County parks and recreational areas; municipal parks; parks owned or administered by other governmental subdivisions; hardwood draws; and enrolled woodlands.
 - d. ~~Prime farmland and unique farmland, as defined by the land inventory and monitoring division of the soil conservation service, United States department of agriculture, in 7 C.F.R. part 657; provided, however, that if the commission finds that the prime farmland and unique farmland 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 productions, this exclusion does not apply.~~
 - e. ~~Irrigated land.~~
 - f. Areas critical to the life stages of threatened or endangered animal or plant species.
 - g. Areas where animal or plant species that are unique or rare to this state would be irreversibly damaged.
 - h. Areas within one thousand two hundred feet of the geographic

center of an intercontinental ballistic missile (ICBM) launch or launch control facility.

2. **Additional exclusion areas for wind energy conversion facilities.** The following geographical areas must be excluded in the consideration of a site for a wind energy conversion facility:

- a. Areas within:

- (1) One and one-tenth times the height of the turbine from the nearest edge of an interstate or state roadway right of way;
- (2) One and one-tenth times the height of the turbine plus seventy-five feet from the centerline of any county or maintained township roadway;
- (3) One and one-tenth times the height of the turbine from the nearest edge of any a railroad right of way;
- (4) One and one-tenth times the height of the turbine from a the nearest edge of a one hundred fifteen kilovolt or higher transmission line right of way; and
- (5) One and one-tenth times the height of the turbine from the property line of a nonparticipating landowner and three times the height of the turbine from an inhabited rural residence of a nonparticipating landowner, unless a variance is granted. A variance may be granted if an authorized representative or agent of the permittee, the nonparticipating landowner, and affected parties with associated wind rights file a written agreement expressing all parties' support for a variance to reduce the setback requirement in this subsection. A nonparticipating landowner is a landowner that has not signed a wind option or an easement agreement with the permittee of the wind energy conversion facility as defined in North Dakota Century Code chapter 17-04.

3. **Avoidance areas.** The following geographical areas may not be approved as a site for an energy conversion 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 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 sites. Economic considerations alone will not justify approval of these areas. A buffer zone

of a reasonable width to protect the integrity of the area must be included. Natural screening may be considered in determining the width of the buffer zone.

- a. Historical resources which are not designated as exclusion areas.
 - b. Areas within the city limits of a city or the boundaries of a military installation.
 - c. Areas within known floodplains as defined by the geographical boundaries of the hundred-year flood.
 - d. Areas that are geologically unstable.
 - e. Woodlands and wetlands.
 - f. Areas of recreational significance which are not designated as exclusion areas.
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5. **Selection criteria.** A site may be approved in an area only when it is demonstrated to the commission by the applicant that any significant adverse effects resulting from the location, construction, and operation of the facility in that area as they relate to the following, will be at an acceptable minimum, or that those effects will be managed and maintained at an acceptable minimum. The effects to be considered include:
- a. The impact upon agriculture:
 - (1) Agricultural production.
 - (2) Family farms and ranches.
 - (3) Land which the owner demonstrates has soil, topography, drainage, and an available water supply that cause the land to be economically suitable for irrigation.
 - (4) Surface drainage patterns and ground water flow patterns.

- (5) The agricultural quality of the cropland.
 - b. The impact upon the availability and adequacy of:
 - (1) Law enforcement.
 - (2) School systems and education programs.
 - (3) Governmental services and facilities.
 - (4) General and mental health care facilities.
 - (5) Recreational programs and facilities.
 - (6) Transportation facilities and networks.
 - (7) Retail service facilities.
 - (8) Utility services.
 - c. The impact upon:
 - (1) Local institutions.
 - (2) Noise-sensitive land uses.
 - (3) Light-sensitive land uses.
 - (4) Rural residences and businesses.
 - (5) Aquifers.
 - (6) Human health and safety.
 - (7) Animal health and safety.
 - (8) Plant life.
 - (9) Temporary and permanent housing.
 - (10) Temporary and permanent skilled and unskilled labor.
 - d. The cumulative effects of the location of the facility in relation to existing and planned facilities and other industrial development.
6. **Policy criteria.** The commission may give preference to an applicant that

will maximize benefits that result from the adoption of the following policies and practices, and in a proper case may require the adoption of such policies and practices. The commission may also give preference to an applicant that will maximize interstate benefits. The benefits to be considered include:

- a. Recycling of the conversion byproducts and effluents.
- b. Energy conservation through location, process, and design.
- c. Training and utilization of available labor in this state for the general and specialized skills required.
- d. Use of a primary energy source or raw material located within the state.
- e. Not relocating residents.
- f. The dedication of an area adjacent to the facility to land uses such as recreation, agriculture, or wildlife management.
- g. Economies of construction and operation.
- h. Secondary uses of appropriate associated facilities for recreation and the enhancement of wildlife.
- i. Use of citizen coordinating committees.
- j. A commitment of a portion of the energy produced for use in this state.
- k. Labor relations.
- l. The coordination of facilities.
- m. Monitoring of impacts.
- n. A commitment to install lighting mitigation technology for wind energy conversion facilities subject to commercial availability and federal aviation administration approval.

History: Amended effective August 1, 1979; July 1, 2006; April 1, 2013; July 1, 2017; July 1, 2018.

General Authority: NDCC 28-32-02, 49-22-18

Law Implemented: NDCC 49-22-05.1, 49-22.1-03

69-06-08-02. Transmission facility corridor and route criteria.

The following criteria must guide and govern the preparation of the inventory of exclusion and avoidance areas, and the corridor and route suitability evaluation process. Exclusion and avoidance areas may be located within a corridor, but at no given point may such an area or areas encompass more than fifty percent of the corridor width unless there is no reasonable alternative.

1. **Exclusion areas.** The following geographical areas must be excluded in the consideration of a route for a transmission facility. A buffer zone of a reasonable width to protect the integrity of the area must be included. Natural screening may be considered in determining the width of the buffer zone.
 - a. Designated or registered national: parks; memorial parks; historic sites and landmarks; natural landmarks; monuments; and wilderness areas.
 - b. Designated or registered state: parks; historic sites; monuments; historical markers; archaeological sites; and nature preserves.
 - c. County parks and recreational areas; municipal parks; and parks owned or administered by other governmental subdivisions.
 - d. Areas critical to the life stages of threatened or endangered animal or plant species.
 - e. Areas where animal or plant species that are unique or rare to this state would be irreversibly damaged.
 - f. Areas within one thousand two hundred feet of the geographic center of an intercontinental ballistic missile (ICBM) launch or launch control facility.
 - g. Areas within thirty feet on either side of a direct line between intercontinental ballistic missile (ICBM) launch or launch control facilities to avoid microwave interference.
2. **Avoidance areas.** The following geographical areas 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 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. Economic considerations alone will not justify approval of these areas. A

buffer zone of a reasonable width to protect the integrity of the area will be included unless a distance is specified in the criteria. Natural screening may be considered in determining the width of the buffer zone.

- a. Designated or registered national: historic districts; wildlife areas; wild, scenic, or recreational rivers; wildlife refuges; and grasslands.
 - b. Designated or registered state: wild, scenic, or recreational rivers; game refuges; game management areas; management areas; forests; forest management lands; and grasslands.
 - c. Historical resources which are not specifically designated as exclusion or avoidance areas.
 - d. Areas which are geologically unstable.
 - e. Within five hundred feet [152.4 meters] of a residence, school, or place of business. This criterion shall not apply to a water pipeline transmission facility.
 - f. Reservoirs and municipal water supplies.
 - g. Water sources for organized rural water districts.
 - h. Irrigated land. This criterion shall not apply to an underground transmission facility.
 - i. Areas of recreational significance which are not designated as exclusion areas.
3. **Selection criteria.** A corridor or route shall be designated only when it is demonstrated to the commission by the applicant that any significant adverse effects which will result from the location, construction, and maintenance of the facility as they relate to the following, will be at an acceptable minimum, or that those effects will be managed and maintained at an acceptable minimum. The effects to be considered include:
- a. The impact upon agriculture:
 - (1) Agricultural production.
 - (2) Family farms and ranches.
 - (3) Land which the owner can demonstrate has soil, topography, drainage, and an available water supply that cause the land to be economically suitable for irrigation.

(4) Surface drainage patterns and ground water flow patterns.

b. The impact upon:

(1) Sound-sensitive land uses.

(2) The visual effect on the adjacent area.

(3) Extractive and storage resources.

(4) Wetlands, woodlands, and wooded areas.

(5) Radio and television reception, and other communication or electronic control facilities.

(6) Human health and safety.

(7) Animal health and safety.

(8) Plant life.

4. **Policy criteria.** The commission may give preference to an applicant that will maximize benefits that result from the adoption of the following policies and practices, and in a proper case may require the adoption of such policies and practices. The commission may also give preference to an applicant that will maximize interstate benefits. The benefits to be considered include:

a. Location and design.

b. Training and utilization of available labor in this state for the general and specialized skills required.

c. Economies of construction and operation.

d. Use of citizen coordinating committees.

e. A commitment of a portion of the transmitted product for use in this state.

f. Labor relations.

g. The coordination of facilities.

h. Monitoring of impacts.

- i. Utilization of existing and proposed rights of way and corridors.
- j. Other existing or proposed transmission facilities.

History: Amended effective August 1, 1979; January 1, 1982; February 1, 1995; July 1, 2006; April 1, 2013.

General Authority: NDCC 49-22-18

Law Implemented: NDCC 49-22-05.1

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Energy Conversion Facility Siting Criteria
Rulemaking

Case No. PU-19-36

**NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES AND NOTICE OF
PUBLIC HEARING**

February 6, 2019

PLEASE TAKE NOTICE that the Public Service Commission will hold a public hearing to address proposed changes to North Dakota Administrative Code to amend section 69-06-08-01 of the North Dakota Century Code.

A hearing will be held on the proposed rules at **1:30 p.m. Central Time on March 13, 2019, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota**. The proposed revisions to the North Dakota Administrative Code are as follows:

Case No. PU-19-36 - Section 69-06-08-01- Energy Conversion Facility Siting Criteria

The Commission is proposing to amend North Dakota Administrative Code section 69-06-08-01 to remove prime and unique farmland, and irrigated land from being excluded from consideration for an energy conversion facility, and to clarify additional exclusion areas for a wind energy conversion facility.

The proposed amendments are not expected to have an impact on the regulated community in the excess of \$50,000.

The proposed rules, any Regulatory or other analyses, and the statements concerning the Regulatory Analysis, Small Entity Regulatory Analysis and Economic Impact, and Takings Assessment may be reviewed at the Public Service Commission's offices on the 12th floor of the State Capitol, Bismarck, North Dakota. To obtain a copy of the proposed rule changes or the statements contact the Public Service Commission at 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, 701-328-2400, toll free 1-877-245-6685, Relay North Dakota TTY 1-800-366-6888, or ndpsc@nd.gov. This information is also available on the commission's web site at www.psc.nd.gov under "Formal Actions/Case Search".

Interested persons may attend the hearing and may submit oral or written comments on the proposed rules. Oral or Written comments should be sent to Steve Kahl,


Interim Executive Secretary, Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, or ndpsc@nd.gov. The comment period closes 10 days after the hearing. Comments must be received by the close of business on March 25, 2019 to be fully considered.

If you plan to attend the public hearing and will need special facilities or assistance relating to disability, please contact the Public Service Commission at the above telephone number or address at least 24 hours prior to the public hearing.

PUBLIC SERVICE COMMISSION


Julie Fedorchak
Commissioner


Brian Kroshus
Chairman


Randy Christmann
Commissioner

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Energy Conversion Facility Siting Criteria
Rulemaking

Case No. PU-19-36

**NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES AND
NOTICE OF PUBLIC HEARING**

February 6, 2019

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A public hearing will be held at 1:30 p.m. Central Time, March 13, 2019, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota. Written comments may be submitted to the Public Service Commission until the close of business on March 25, 2019.

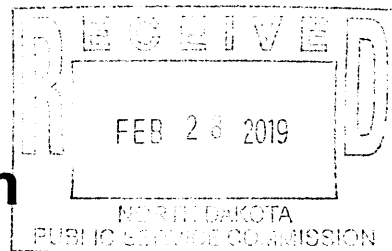
Interested persons may attend the hearing and may submit oral or written comments on the proposed rules. Oral or Written comments should be sent to Steve Kahl, Interim Executive Secretary, Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, or ndpsc@nd.gov. The comment period closes 10 days after the hearing. Comments must be received by the close of business on March 25, 2019 to be fully considered.

A copy of the proposed rules, analyses, and statements may be obtained from the Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, 701-328-2400, toll free 1-877-245-6685, Relay North Dakota TTY: 1-800-366-6888, or ndpsc@nd.gov. This information is also available to view on the Public Service Commission's web site at www.psc.nd.gov under "Formal Actions/Case Search".

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PUBLIC SERVICE COMMISSION

 Julie Fedorchak Commissioner	 Brian Kroshus Chairman	 Randy Christmann Commissioner
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Affidavit of Publication

Colleen Park, being duly sworn, states as follows:

1. I am the designated agent, under the provisions and for the purposes of, Section 31-04-06, NDCC, for the newspapers listed on the attached exhibits.

2. The newspapers listed on the exhibits published the advertisement of: **Public Service Commission – Administrative Rules relating to Energy Conversion Facility Siting Criteria, Case No. PU-19-36; 1 time(s)** as required by law or ordinance.

3. All of the listed newspapers are legal newspapers in the State of North Dakota and, under the provisions of Section 46-05-01, NDCC, are qualified to publish any public notice or any matter required by law or ordinance to be printed or published in a newspaper in North Dakota.

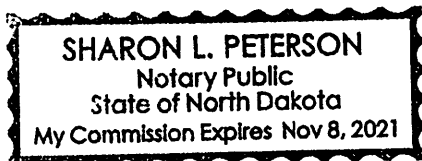
Signed: Colleen Park

State of North Dakota

County of Burleigh

Subscribed and sworn to before me this 27 day of Feb., 20 19.

Sharon L. Peterson



such as may be determined in the best interest of the state.

For disability/language assistance, call 701-328-2978.

Requested by:
Thomas K. Sorel, Director
North Dakota Department
of Transportation

Feb. 13, 2019

Jan. 30, Feb. 6, 13, 2019

**ABBREVIATED NOTICE
OF INTENT TO REPEAL
AND CREATE NEW
ADMINISTRATIVE RULES**

relating to Proposed Changes to the Requirements to Obtain and Renew School Principal Credentials

**North Dakota
Department of**

Public Instruction

will hold a public hearing to address proposed changes to the N.D. Admin. Code 67-11, Educator Credentials.

**Meeting Room E
Quality Inn**

1030 E. Interstate Ave.

Bismarck, ND 58503

Mon., March 11, 2019

1:30 p.m.

These changes are being proposed to revise requirements for the principal credential.

The proposed rules may be reviewed at the NDDPI Office of School Approval and Opportunity, ND State Capitol, 600 E. Boulevard Avenue, Bismarck, ND 58505-0440. A copy of the proposed rules and/or a regulatory analysis may be requested in writing to the above address, to the attention of Jim Upgren, emailing jimupgren@nd.gov, or calling 701-328-2244. Written and oral comments may be sent to the above address or telephone number until 4:00 p.m. on Friday, March 22, 2019.

If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the NDPI at the above telephone number or address at least five days prior to the public hearing.

Dated this 4th day of February 2019.

Jim Upgren, Assistant Director
Office of School Approval
and Opportunity
ND Dept. of Public Instruction

**NOTICE OF INTENT
TO AMEND
ADMINISTRATIVE RULES
AND
NOTICE OF PUBLIC
HEARING**

relating to
Energy Conversion Facility
Siting Criteria Rulemaking

**North Dakota Public
Service Commission**

will hold a public hearing to address proposed amendments to the North Dakota Administrative Code to amend section 69-06-08-01.

**Commission Hearing Rm.
12th Floor of State Capitol
600 E. Boulevard Ave.**

Dept. 408

Bismarck, ND

Wed., March 13, 2019

1:30 p.m. CT

A copy of the proposed rules, analyses, and statements may be obtained from the Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, 701-328-2400, toll free 1-877-245-6685, Relay North Dakota TTY: 1-800-366-6888, or ndpsc@nd.gov. This information is also available to view on the Public Service Commission's web site at www.psc.nd.gov under "Formal Actions/Case Search". Interested persons may attend the hearing and may submit oral or written comments on the proposed rules. Oral or written comments should be sent to Steve Kahl, Interim Executive Secretary, Public Service Commission, 600 East Boulevard Ave., Dept. 408, Bismarck, ND 58505-0480, or ndpsc@nd.gov. The comment period closes 10 days after the hearing. Comments must be received by the close of business on March 25, 2019 to be fully considered. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Public Service Commission at the above telephone number or address at least 24 hours prior to the public hearing.

PUBLIC SERVICE COMMISSION

Julie Fedorchak
Commissioner

Brian Kroshus
Chairman

Randy Christmann
Commissioner

The Mountrail County Planning & Zoning Board will hold a Public Hearing on Monday, February 25, 2019 at 8:33 A.M. in the Mountrail County South Complex Conference Room located at 8103 61st Street NW, Stanley, North Dakota, for the purpose of receiving comments on a zoning request filed by North Water, LLC in concurrence with Roger & Darlene Vesey, landowners, for a variance to pump water from Shell Lake for fracking on an 22.7 acre, more or less, tract of land described as Gov't Lot 9, Section 18, Township 155 North, Range 89 West (McAlmond Township).

The provisions regarding the variance process are contained within the Mountrail County Zoning Ordinances. The Zoning Ordinances may be viewed at the Mountrail County Planning & Zoning Office during office hours or anytime at www.co.mountrail.nd.us under the Planning & Zoning section.

If you are unable to attend the public hearing, written comments can be mailed to Mountrail County Planning and Zoning, PO Box 248, Stanley, ND 58784-0248 and will be accepted until Friday, February 22, 2019.

Mountrail County complies with Title VI Nondiscrimination Standards and the Americans with Disabilities Act. These policies can be viewed at the Mountrail County Auditor's Office. If any special accommodations are required, please contact: Mountrail County Title VI Compliance & ADA Coordinator, Nichole Degenstein, P.O. Box 69, Stanley, ND 58784-0069, phone: 701-628-2935, Fax: 701-628-4750, email: nicholed@co.mountrail.nd.us.

Dated at Stanley, North Dakota this 1st day of February, 2019.

Charlie Sorenson, Chairman
Planning & Zoning Commission

ATTEST:

Liz Howell

Mountrail County Planner

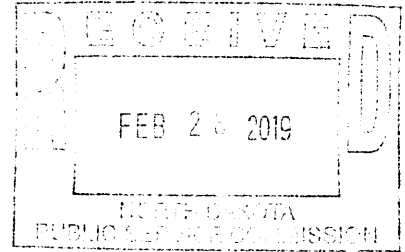
Feb. 6, 13, 2019

**NORTH DAKOTA
2019 RED RIVER VALLEY
SPORTS
BOAT, CAMPING &
SHOW
Feb 28-Mar 3
www.FargoSD.com**

2/13 Stanley

North Dakota Newspaper Association

1435 Interstate Loop
 Bismarck, North Dakota 58503
 Phone: 1-701-223-6397 Fax: 1-701-223-8185



INVOICE February 26, 2019

Order: 19024PP3 Invoice# 8697

Attn: Darrell Nitschke Public Service Commission 600 E. Blvd Ave. Dept 408 Bismarck, North Dakota 58505	
Voice: 1-701-328-4076	Fax:

Advertiser: **Public Service Commission**
 P.O.#: **Case No. PU-19-36**
 Brand:
 Campaign:
 Client Order Number:
 Amount Due: **\$2,842.70**

Please detach and return this portion with your payment

Public Service Commission Invoice# 8697 P.O.#: Case No. PU-19-36 Client Order Number:

Run Date	Ad Size	Rate Type	Rate	Color Rate	Total	Discount	(%)	Amount after Discount	Page
Ashley Tribune (Ashley, North Dakota)									
02/13/2019	7.50	Notice Display	\$0.00		DID NOT RUN	\$0.00	(0.00%)	\$0.00	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
02/20/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	15.00		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Beach, Golden Valley News (Beach, North Dakota)									
02/14/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Beulah Beacon (Beulah, North Dakota)									
02/14/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Bismarck Tribune (Bismarck, North Dakota)									
02/13/2019	7.50	Notice Display	\$13.23		\$99.23	\$0.00	(0.00%)	\$99.23	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$13.23	\$0.00	\$99.23	\$0.00		\$99.23	
Bottineau Courant (Bottineau, North Dakota)									
02/19/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Bowbells, Burke County Tribune (Bowbells, North Dakota)									
02/13/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Bowman County Pioneer (Bowman, North Dakota)									
02/15/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Cando, Towner County Record Herald (Cando, North Dakota)									
02/16/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	

Run Date	Ad Size	Rate Type	Rate	Color Rate	Total	Discount	(%)	Amount after Discount	Page
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Carrington, Foster County Independent (Carrington, North Dakota)									
02/18/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Carson Press (Elgin, North Dakota)									
02/13/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Cavaller Chronicle (Cavaller, North Dakota)									
02/13/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Center Republican (Hazen, North Dakota)									
02/14/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Cooperstown, Griggs County Courier (Cooperstown, North Dakota)									
02/15/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Crosby, The Journal (Crosby, North Dakota)									
02/13/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Devils Lake Journal (Devils Lake, North Dakota)									
02/15/2019	7.50	Notice Display	\$8.99		\$67.43	\$0.00	(0.00%)	\$67.43	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$8.99	\$0.00	\$67.43	\$0.00		\$67.43	
Dickinson Press (Dickinson, North Dakota)									
02/13/2019	7.50	Notice Display	\$8.99		\$67.43	\$0.00	(0.00%)	\$67.43	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$8.99	\$0.00	\$67.43	\$0.00		\$67.43	
Elgin, Grant County News (Elgin, North Dakota)									
02/13/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Ellendale, Dickey County Leader (Ellendale, North Dakota)									
02/14/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Fargo, The Forum (Fargo, North Dakota)									
02/18/2019	7.50	Notice Display	\$13.23		\$99.23	\$0.00	(0.00%)	\$99.23	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$13.23	\$0.00	\$99.23	\$0.00		\$99.23	
Finley, Steele County Press (Finley, North Dakota)									
02/15/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Garrison, McLean County Independent (Garrison, North Dakota)									

Run Date	Ad Size	Rate Type	Rate	Color Rate	Total	Discount	(%)	Amount after Discount	Page
02/14/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Grafton, Walsh County Record (Grafton, North Dakota)									
02/13/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Grand Forks Herald (Grand Forks, North Dakota)									
02/14/2019	7.50	Notice Display	\$13.23		\$99.23	\$0.00	(0.00%)	\$99.23	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$13.23	\$0.00	\$99.23	\$0.00		\$99.23	
Harvey, The Herald-Press (Harvey, North Dakota)									
02/16/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Hettinger, Adams County Record (Hettinger, North Dakota)									
02/15/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Jamestown Sun (Jamestown, North Dakota)									
02/13/2019	7.50	Notice Display	\$8.99		\$67.43	\$0.00	(0.00%)	\$67.43	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$8.99	\$0.00	\$67.43	\$0.00		\$67.43	
Killdeer, Dunn County Herald (Killdeer, North Dakota)									
02/15/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
LaMoure Chronicle (LaMoure, North Dakota)									
02/13/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Lakota American (Lakota, North Dakota)									
02/14/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Langdon, Cavalier County Republican (Langdon, North Dakota)									
02/18/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Linton, Emmons County Record (Linton, North Dakota)									
02/14/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Lisbon, Ransom County Gazette (Lisbon, North Dakota)									
02/18/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Mandan News (Mandan, North Dakota)									
02/15/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	

Public Service Commission Invoice# 8697 P.O.#: Case No. PU-19-36 Client Order Number:

Run Date	Ad Size	Rate Type	Rate	Color Rate	Total	Discount	(%)	Amount after Discount	Page
Mayville, Traill Co Tribune (Mayville, North Dakota)									
02/16/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
McClusky Gazette (McClusky, North Dakota)									
02/14/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Medora, Billings County Pioneer (Beach, North Dakota)									
02/14/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Minor The Sargent County Teller (Minor, North Dakota)									
02/15/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Minnewaukan Benson County Farmers Press (Minnewaukan, North Dakota)									
02/14/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Minot Daily News (Minot, North Dakota)									
02/13/2019	7.50	Notice Display	\$13.23		\$99.23	\$0.00	(0.00%)	\$99.23	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$13.23	\$0.00	\$99.23	\$0.00		\$99.23	
Mohall Renville County Farmer (Mohall, North Dakota)									
02/13/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Napoleon Homestead (Napoleon, North Dakota)									
02/13/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
New England Herald (New England, North Dakota)									
02/15/2019	7.50	Notice Display	\$0.00		DID NOT RUN	\$0.00	(0.00%)	\$0.00	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
02/22/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	15.00		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
New Rockford Transcript (New Rockford, North Dakota)									
02/18/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Rolla Turtle Mountain Star (Rolla, North Dakota)									
02/18/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Rugby Pierce County Tribune (Rugby, North Dakota)									
02/16/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Stanley Mountrail County Promoter (Stanley, North Dakota)									

Public Service Commission Invoice# 8697 P.O.#: Case No. PU-19-36 Client Order Number:

Run Date	Ad Size	Rate Type	Rate	Color Rate	Total	Discount	(%)	Amount after Discount	Page
02/13/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Steele Ozone & Kidder County Press (Steele, North Dakota)									
02/13/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Towner Mouse River Journal (Towner, North Dakota)									
02/13/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Valley City Times-Record (Valley City, North Dakota)									
02/13/2019	7.50	ad was in incorrect format	\$0.00		\$0.00	\$0.00	(0.00%)	\$0.00	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
02/20/2019	7.50	Notice Display	\$8.99		\$67.43	\$0.00	(0.00%)	\$67.43	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	15.00		\$8.99	\$0.00	\$67.43	\$0.00		\$67.43	
Wahpeton, Dally News Media (Wahpeton, North Dakota)									
02/13/2019	7.50	Notice Display	\$8.99		\$67.43	\$0.00	(0.00%)	\$67.43	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$8.99	\$0.00	\$67.43	\$0.00		\$67.43	
Watford City, McKenzie County Farmer (Watford City, North Dakota)									
02/13/2019	7.50	Notice Display	\$6.48		\$48.60	\$0.00	(0.00%)	\$48.60	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$6.48	\$0.00	\$48.60	\$0.00		\$48.60	
Williston Herald (Williston, North Dakota)									
02/13/2019	7.50	Notice Display	\$8.99		\$67.43	\$0.00	(0.00%)	\$67.43	
Caption: relating to Energy Conversion Facility Siting Criteria; Case No. PU-19-36									
Subtotal:	7.50		\$8.99	\$0.00	\$67.43	\$0.00		\$67.43	

Gross Advertising	\$2,842.70	Total Misc	\$0.00	Amount Paid	\$0.00
Agency Discount	\$0.00	Tax	\$0.00	Adjustments	\$0.00
Other Discount	\$0.00	Total Billed	\$2,842.70	Payment Date	
Service Charge	\$0.00	Unbilled	\$0.00	Balance Due	\$2,842.70

We accept checks, Visa/MasterCard, and ACH. Contact Rhonda at rhondaw@ndna.com or 701-595-7311 for ACH information or to pay with a credit card. A 3% FEE WILL BE ADDED TO ALL CREDIT CARD TRANSACTIONS.



Public Service Commission
State of North Dakota

COMMISSIONERS

Brian Kroshus
Julie Fedorchak
Randy Christmann

600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
Web: www.psc.nd.gov
E-mail: ndpsc@nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

12 February 2019

Vonette Richter
Code Reviser
North Dakota Legislative Council
State Capitol
600 East Boulevard, 2nd Floor
Bismarck, ND 58505-0360

Re: Notice of Intent to Amend Administrative Rules
PSC Case Number PU-19-36

Dear Ms. Richter:

The Public Service Commission recently passed a motion to propose changes to its administrative rules and issue notices. Consequently, enclosed please find copies of:

- Commission Motion to Propose Revisions to the North Dakota Administrative Code and Issue Notices;
- Proposed rule changes that were the subject of the Motion:
 - Section 69-06-08-01 Energy Conversion Facility Siting Criteria
- Notice of Intent to Amend Administrative Rules and Notice of Public Hearing; and
- Confirmed proof for publication from the North Dakota Newspaper Association showing the Abbreviated Notice of Intent to Amend Administrative Rules and Notice of Public Hearing.

If you have any questions please do not hesitate to call.

Best Regards,

John Schuh
Legal Counsel

enclosures

Received by the office of the Legislative Council this 12 day of
February 2019

By: VS

8 PU-19-36 Filed 02/12/2019 Pages: 14
Letter to Legislative Council enclosing Commission Motion, proposed Rule, & Notices
Public Service Commission
John Schuh, Legal Counsel

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Energy Conversion Facility Siting Criteria
Rulemaking**

Case No. PU-19-36

**Statements on Regulatory Analysis, Small Entity Analysis,
and Takings Assessment**

February 6, 2019

The Commission is proposing to amend North Dakota Administrative Code section 69-06-08-01 to remove prime and unique farmland and irrigated land from designation as exclusion areas, and to clarify additional exclusion areas for a wind energy conversion facility.

Regulatory Analysis

N.D.C.C. § 28-32-08 requires an agency to prepare a regulatory analysis if the rule is expected to have an impact on the regulated community in excess of fifty thousand dollars, or if one is requested as provided in the law. The law provides, in part:

2. The regulatory analysis must contain:
 - a. A description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;
 - b. A description of the probable impact, including economic impact, of the proposed rule;
 - c. The probable costs to the agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues; and
 - d. A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why the methods were rejected in favor of the proposed rule.

A regulatory analysis has not been requested, and the proposal is not expected to impact the regulated community by an amount in excess of fifty thousand dollars (\$50,000.00). Consequently, no regulatory analysis has been prepared.

Takings Assessment

N.D.C.C. § 28-32-09 requires an entity to prepare a written assessment of the constitutional takings implications of a proposed rule that may limit the use of private real property. The law provides, in part:

The Commission does not anticipate that the proposed amendments will limit the use of private property. Consequently, no takings assessment was prepared.

Small Entity Regulatory Analysis

N.D.C.C. § 28-32-08.1 requires that before adoption of any proposed rule, the adopting agency prepare a regulatory analysis in which the agency considers options to minimize adverse impact on small entities. The law provides, in part:

2. . . . The agency shall consider each of the following methods of reducing impact of the proposed rule on small entities:

- a. Establishment of less stringent compliance or reporting requirements for small entities;
- b. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities;
- c. Consolidation or simplification of compliance or reporting requirements for small entities;
- d. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule; and
- e. Exemption of small entities from all or any part of the requirements contained in the proposed rule.

Small Entity Regulatory Analysis

No adverse impact on small entities is anticipated.

Small Entity Economic Impact Statement

The proposed chapter and amendments are not expected to affect small entities or have an economic impact on them, so the Commission has not provided less-stringent requirements or exemptions for small entities.

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Energy Conversion Facility Siting Criteria
Rulemaking**

Case No. PU-19-36

STAFF TESTIMONY
March 13, 2019

My name is Patrick Fahn. I am the Director of Public Utilities with the Public Service Commission. My testimony introduces proposed changes to the Commission's administrative rules pertaining to the Energy Conversion Facility Siting Criteria, Section 69-06-08-01 of the North Dakota Administrative Code, which implements North Dakota Century Code Chapter 49-22 and Chapter 49-22.1.

Section 69-06-08-01 identifies the criteria that guides and governs the Commission's site suitability evaluation process. The criteria includes exclusion areas, avoidance areas, selection criteria and policy criteria. Exclusion areas are geographic areas that *must* be excluded in the consideration of a site for an energy conversion facility.

The Commission is proposing to amend Section 69-06-08-01 to delete prime farmland, unique farmland, and irrigated land from the list of areas that must be excluded from consideration of a site. The change is intended to allow discretion in the siting process regarding prime farmland, unique farmland, and irrigated land; and does not eliminate consideration of a project's effects on agricultural production, family farms and ranches, land economically suitable for irrigation, and the agricultural quality of cropland; which are selection criteria under Section 69-06-08-01.

The Commission is also proposing to amend Subsection 2 of Section 69-06-08-01 to be more clear that "Additional exclusion areas for wind energy conversion facilities" are one and one-tenth times the height of the turbine from "the nearest edge of an" interstate or state roadway right of way, from "the nearest edge of a" railroad right of way, and from "the nearest edge of a" 115 kV or higher transmission line "right of way."

This concludes my testimony. I would be happy to answer any questions at this time. Thank you.



March 8, 2019

VIA E-MAIL (ndpsc@nd.gov)

Steve Kahl
Interim Executive Secretary
Public Service Commission
600 East Boulevard Avenue, Department 408
Bismarck, ND 58505-0480

**RE: Public Service Commission – Energy Conversion Facility Siting Criteria Rulemaking
Case No. PU-19-36**

Dear Mr. Kahl:

Geronimo Energy, LLC (“Geronimo”) provides the following comments regarding the siting criteria changes proposed by the North Dakota Public Service Commission (“Commission”) in the above-referenced rulemaking docket. As background, Geronimo is a utility-scale renewable energy development company headquartered in Edina, Minnesota. Geronimo has developed multiple wind farms and solar projects throughout the United States, including in North Dakota. Currently, Geronimo is the parent company of Harmony Solar ND, LLC, which is developing the Harmony Solar Project in Cass County, North Dakota, and Prosperity Wind Farm, LLC and Prosperity Wind Farm 2, LLC, which are developing wind farms, also in Cass County, North Dakota.

With deep roots in agriculture, Geronimo prides itself on developing wind farms that are farmer-friendly, community-driven, and beneficial for rural communities. For this reason in particular, Geronimo supports the Commission’s proposal to remove prime farmland, farmland of statewide importance, and irrigated land from the list of exclusion areas in Section 69-06-08-01(1) of the North Dakota Administrative Code. Renewable energy projects, such as wind and solar projects, provide an opportunity for landowners in rural areas to diversify their income. Further, these projects require support from and voluntary agreements with the landowners. As such, the landowners are choosing to participate in such projects because they have determined that is how they want to use their land. Removing prime farmland/farmland of statewide importance and irrigated land as exclusion areas helps facilitate landowner choice when it comes to participation in wind and solar projects.

If you have any questions, please let me know.

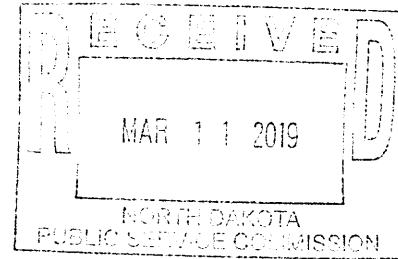
Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Engelking".

Elizabeth Engelking,
Vice President

7650 EDINBOROUGH WAY, STE 725, EDINA, MN 55435 | P 952.988.9000 | F 952.988.9001
www.geronimoenergy.com

Public Service Commission
Energy Conversion Facility Siting Criteria
Rulemaking
Case No. PU-19-36



Citizen Comment:

I wish to make my comments known to the Public Service Commission that I strongly oppose removing prime farmland, unique farmland, and irrigated land from consideration in the siting criteria for energy conversion facilities.

The siting criteria current in place is to protect North Dakota's limited forest and fauna from exploitation from outside interests. These out of state interests pray on financially strapped farmers to sign away productive farmland for unrealistic land lease agreements of 50 years and more. They encourage landowners to strip the land of any landscape and cover, drain and plow under natural prairie potholes and nesting areas for the promise of a few dollars.

Maintaining and strengthening siting criteria is crucial to guarantee property values and the health and wellbeing of neighbors and the working relations they have with each other.

My concern is a proposed wind turbine farm planned for northwest Cass County. The farm is to include four townships (Ayr, Rich, Empire, and Erie) or 144 square miles of "prime farmland". Geronimo Energy, a Minnesota based company, is behind this boondoggle. 31 sections of land have already been signed up for a 67 year land lease. Conditional use permits have not been issued by township boards and many of those board members have conflicts of interest as they have signed up their own land for direct benefit. In my township alone (Rich) I have witnessed tree claim after tree claim being removed. Prairie potholes drained, burned and plowed under to increase land area. Natural drainage rerouted to benefit participating landowners while harming others. SODAR units and testing towers dot Rich and Ayr township. The landscape has an unnatural sickly look about it. Waterfowl once abundant in the spring is all but gone short of a duck or two. Daily raptor sightings gone also. Pollinator counts over the last two years are down sharply and detected in lower yields of harvested fruits and vegetables.

Expressing my concerns about the project to Geronimo Energy, I was advised, "the PSC would approve the site because of their great record with them" and told by one of their officials to "enjoy my view of the array from my patio".

Energy Conversion Facility Siting Criteria should also include protecting individuals from their neighbors as the promise of dollars has clouded their minds with greed and self-preservation.

I encourage the PSC to adopt stricter rules that requires any such facilities to be:

at least one mile from a nonparticipating landowner.

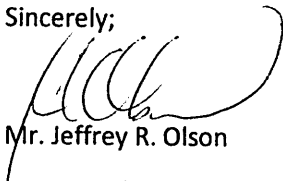
dBA levels at one mile should be required to be under 30 dBA.

Low level noise at one mile should be kept within medical acceptable levels.

Any property devaluation issues caused by such facilities are the sole liability of the participating landowner and the injured property owner has a right to sue for treble damages.

North Dakota is turning into an eyesore; a wasteland by out of state interests under the guise of tax relief and economic prosperity. The PSC has a duty to protect and prevent that.

Sincerely;

A handwritten signature in black ink, appearing to read 'J. Olson', with a large, sweeping flourish extending to the right.

Mr. Jeffrey R. Olson

13905 22nd Street Southeast

Page, ND 58064



March 22, 2019

VIA E-MAIL (ndpsc@nd.gov)

Steve Kahl
Interim Executive Secretary
Public Service Commission
600 East Boulevard Avenue, Department 408
Bismarck, ND 58505-0480

**RE: Public Service Commission – Energy Conversion Facility Siting Criteria Rulemaking
Case No. PU-19-36**

Dear Mr. Kahl:

Geronimo Energy, LLC (“Geronimo”) provides the following additional comments regarding the siting criteria changes proposed by the North Dakota Public Service Commission (“Commission”) in the above-referenced rulemaking docket. On March 8, 2019, Geronimo submitted comments in support of the Commission’s proposal to remove prime farmland, farmland of statewide importance, and irrigated land from the list of exclusion areas in Section 69-06-08-01(1) of the North Dakota Administrative Code. Since that time, Geronimo has had various discussions with landowners in Cass County, North Dakota, who strongly support landowners’ rights to choose if they host an energy project on their property as similarly represented at the Harmony project site permit hearing. Additionally, several landowners have provided additional letters and comments in support of this rule change. Geronimo is filing the attached documents on their behalf and reiterates its initial comments.

In addition, Geronimo has reviewed the comments submitted by Mr. Jeffery R. Olson and offers a few comments in response. First, to clarify, the wind projects referenced by Mr. Olson are currently in development. Geronimo has not undertaken any tree clearing and all development related activities have been conducted with the appropriate permit and landowner consent. Second, once additional development activities and the necessary environmental analyses have been completed, Geronimo plans to file siting applications with the Commission seeking the appropriate permits for the projects. Third, Geronimo has sent project communications to Mr. Olson and has spoken to him directly; however, he has requested we do not contact him again. Geronimo is willing to coordinate with Mr. Olson and will address project specific topics and concerns through ongoing development activities and project specific permitting processes, including permitting with the Commission at the appropriate time. While Geronimo understands that these comments may not necessarily be relevant to the rulemaking proceeding at hand, we felt it important to provide these clarifications.

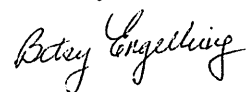
7650 EDINBOROUGH WAY, STE 725, EDINA, MN 55435 | P 952.988.9000 | F 952.988.9001
www.geronimoenergy.com

15 PU-19-36 Filed 03/22/2019 Pages: 7
Additional comments regarding proposed Rule
Geronimo Energy Holdings, LLC
Elizabeth Engelking, Vice President

Mr. Steve Kahl
Page 2
March 22, 2019

If you have any questions, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Engelking".

Elizabeth Engelking,
Vice President

Enclosures

Public Service Commission
Energy Conversion Facility Siting Criteria Rulemaking
Case No. PU-19-36

I am a landowner in Cass County, North Dakota. I strongly support landowners rights in North Dakota and support the North Dakota Public Service Commission's proposal to remove prime farmland, farmland of statewide importance, and irrigated land from the list of exclusion areas in Section 69-06-08-01(1) of the North Dakota Administrative Code.

Signature: Marvin Thorson

Printed Name: Marvin Thorson

Address: 13751 16th St SE
Page ND 58064

3/22/2019

**Public Service Commission
Energy Conversion Facility Siting Criteria Rulemaking
Case No. PU-19-36**

I am a landowner in Cass County, North Dakota. I strongly support landowners rights in North Dakota and support the North Dakota Public Service Commission's proposal to remove prime farmland, farmland of statewide importance, and irrigated land from the list of exclusion areas in Section 69-06-08-01(1) of the North Dakota Administrative Code.

Signature: Kathryn Waxler
Printed Name: Kathryn Waxler
Address: 9327 Jergen Ave S
Cottage Grove MN 55016

**Public Service Commission
Energy Conversion Facility Siting Criteria Rulemaking
Case No. PU-19-36**

I am a landowner in Cass County, North Dakota. I strongly support landowners rights in North Dakota and support the North Dakota Public Service Commission's proposal to remove prime farmland, farmland of statewide importance, and irrigated land from the list of exclusion areas in Section 69-06-08-01(1) of the North Dakota Administrative Code.

Signature:

Russell Ruliffson

Printed Name:

Russell Ruliffson

Address:

2953 163rd Ave S.E.
Harwood ND 58042

Public Service Commission
Energy Conversion Facility Siting Criteria Rulemaking
Case No. PU-19-36

I am a landowner in Cass County, North Dakota. I strongly support landowners rights in North Dakota and support the North Dakota Public Service Commission's proposal to remove prime farmland of statewide importance, and irrigated land from the list of exclusion areas in Section 69-06-08 01(1) of the North Dakota Administrative Code.

Signature: Michael D. Johnson

Printed Name: MICHAEL D. JOHNSON

Address: 432 WILKIN AVE.
BRECKENRIDGE, MN 56520

**Public Service Commission
Energy Conversion Facility Siting Criteria Rulemaking
Case No. PU-19-36**

I am a landowner in Cass County, North Dakota. I strongly support landowners rights in North Dakota and support the North Dakota Public Service Commission's proposal to remove prime farmland, farmland of statewide importance, and irrigated land from the list of exclusion areas in Section 69-06-08-01(1) of the North Dakota Administrative Code.

Signature: Duane Dows

Printed Name: Duane Dows

Address: 14090 16th St. SE.

Page, N.D. 58064

3-22-19



DEPARTMENT OF DEFENSE
REGIONAL ENVIRONMENTAL COORDINATOR, REGION VIII
REGIONAL ENVIRONMENTAL AND ENERGY OFFICE- WESTERN
US CUSTOM HOUSE
721 19TH STREET, ROOM 427
DENVER, CO 80202

March 22, 2019

Steve Kahl
Interim Executive Secretary
Public Service Commission
600 East Boulevard Avenue
Department 408
Bismarck, North Dakota 58505-0480
ndpsc@nd.gov

Subject: Comment Letter PU-19-36 Section 69-06-08-01 – Energy Conversion Facility Siting Criteria

As the Department of Defense (DOD) Regional Environmental Coordinator (REC) in U.S. Environmental Protection Agency (EPA) Region 8, I am responsible for coordinating Armed Services responses to environmental policies and regulatory matters and ensuring our State partners are informed of any impacts to military operations that that might result from proposed legislation or regulation. I sincerely appreciate the opportunity to share our feedback on the North Dakota Public Service Commission's Notice of Intent to Amend Administrative Rules under Section 69-06-08-01 (Case No. PU-19-36). Specifically, I am writing to ensure safety concerns at Minot Air Force Base (AFB) are taken into consideration as you consider revisions to your facility siting criteria.

The State of North Dakota and the Public Service Commission have always made an effort to take the mission at Minot AFB seriously and accommodate the unique land use and air space concerns that come with maintaining and securing our missile facilities. The State demonstrated its commitment to our concerns when it memorialized the 1,200 foot setback requirement for our launch control facilities and the 30ft electronic interference setback in its siting criteria in order to protect Minot AFB launch facilities from incompatible development. Because you are considering amending the criteria at this time we thought it was a good opportunity to inform you of the growing safety concerns associated with the close proximity of wind turbines to our launch facilities and request that while amending the criteria, you add the requirement to: (1) consult with affected military installations; and (2) clarify the 1,200 foot setback from launch facilities be measured from the end of the turbine blade rather than the tower.

The need to consult directly with our affected installations is critical given the sensitive nature of the mission, the emerging technologies and equipment used at our military installations and the hazards posed by the growth of the turbine industry in a terrain that is

regularly used by our helicopters to provide overhead security in sensitive locations in often dangerous weather conditions. Representatives from Minot AFB attended the March 13 2019 hearing outlining concerns related to the proposed rule. We appreciated your incorporation into the final rule the comments in this letter and those expressed by representatives of Minot AFB during the March 13, 2019 hearing.

DOD remains committed to partnering with the North Dakota Public Service Commission to ensure the safety of our missile fields and integrity of our mission. We appreciate the opportunity to provide our concerns in writing and participate in your public hearing. If you have questions or need additional information, please contact Kevin Ward at kevin.m.ward@usace.army.mil or at 303.844.0955.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Mahoney', written in a cursive style.

Mark Mahoney
Department of Defense
Regional Environmental Coordinator,
Region 8