

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

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

**Case No. PU-19-290**

**COMMENTS OF RUSO WIND PARTNERS, LLC**  
**AND SOUTHERN POWER COMPANY**

**I. Introduction.**

The North Dakota Public Service Commission (“Commission”) has proposed changes to N.D.A.C. § 69-06-08-01 Energy Conversion Facility Siting Criteria. Ruso Wind Partners, LLC and Southern Power Company respectfully provide the following comments regarding the proposed rule changes.

**II. Background Regarding Ruso Wind Partners, LLC and Southern Power Company.**

Ruso Wind Partners, LLC, is developing the proposed up to 205 megawatt (“MW”) Ruso Wind Project in Ward County, North Dakota (*see* Case No. PU-19-28). Ruso Wind Partners, LLC, is a wholly-owned subsidiary of Southern Power Company, a leading U.S. wholesale energy provider and subsidiary of Southern Company. Southern Power and its subsidiaries own 49 facilities operating or under construction in 11 states with more than 11,300 MW of generating capacity in Alabama, California, Georgia, Kansas, Maine, Minnesota, Nevada, New Mexico, North Carolina, Oklahoma and Texas. These facilities help meet the electricity needs of municipalities, electric cooperatives, investor-owned utilities and commercial and industrial customers. Southern Power's portfolio now includes over 3,200 MW of renewable generation.

**III. Comments Regarding Proposed N.D.A.C. § 69-06-08-01(1)(g).**

The proposed revisions to N.D.A.C. § 69-06-08-01 include adding the following Exclusion Area as N.D.A.C. § 69-06-08-01(1)(g): “Areas within thirty feet on either side of a direct line between intercontinental ballistic missile (ICBM) launch [and] launch control facilities to avoid microwave interference.”

Based on testimony from U.S. Air Force officials at the September 19, 2019 public hearing on the proposed rule change, we understand that the purpose of proposed N.D.A.C. § 69-06-08-01(1)(g) is to prevent an energy conversion facility from impeding line-of-sight between an ICBM launch facility and a Missile Alert Facility/Launch Control Center (to use the nomenclature from the handout provided by the U.S. Air Force). Given this stated purpose, we recommend revising the proposed rule as follows:

“Areas within thirty feet on either side of a direct line between an  
intercontinental ballistic missile (ICBM) launch facility [and] a

missile alert facility or launch control center ~~launch control facilities~~ to avoid microwave interference. This does not apply between individual launch facilities, and only applies to above-ground structures, not to surface features (such as roads) or below-ground infrastructure (such as collection systems and communication lines)."

The proposed revisions clarify the specific facilities between which line-of-sight is to be maintained. Additionally, the proposed revisions limit the rule's application to above-ground structures, which were the concern identified by the U.S. Air Force for line-of-sight interference.

**IV. Conclusion.**

Ruso Wind Partners, LLC and Southern Power Company respectfully request that the Commission incorporate the revisions to proposed N.D.A.C. § 69-06-08-01(1)(g) set forth above.