



September 30, 2019

VIA E-MAIL (ndpsc@nd.gov)

North Dakota Public Service Commission
c/o Mr. Steven Kahl, Executive Secretary
600 East Boulevard Avenue, Department 408
Bismarck, ND 58505-0480

**RE: Public Service Commission
Energy Conversion Facility Siting Criteria
Rulemaking
Case No. PU-19-290**

Dear Commissioners:

Geronimo Energy, LLC (“Geronimo”), a National Grid Company, provides the following comments regarding the siting criteria changes proposed by the North Dakota Public Service Commission (“Commission”) in the above-referenced rulemaking docket.

A. Comments Regarding the Proposed Addition of N.D.A.C. § 69-06-08-01(1)(g).

The Commission is proposing to add a new Exclusion Area for energy conversion facilities 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.” In Geronimo’s experience, GIS data, official maps, or other documentation showing the location of its launch or launch control facilities have not been made available by the U.S. Air Force. Rather, consultation occurs by providing proposed project facilities to the U.S. Air Force to review, and then the U.S. Air Force would identify any potential issues in relation to military assets. In other words, based on Geronimo’s past experience, developers do not have access to official maps or data showing the location of ICBM launch and launch control facilities, so would not be able to identify whether the proposed Exclusion Area was present at a potential site until well into project development.

Therefore, if the Commission adds N.D.A.C. § 69-06-08-01(1)(g) as an Exclusion Area, Geronimo respectfully requests that the Commission ask the U.S. Air Force to make readily available to developers maps and other information regarding the location of ICBM launch and launch control facilities so that the location of Exclusion Areas can be identified early in project siting. If such information cannot be made available, then Geronimo requests that the Commission not add N.D.A.C. § 69-06-08-01(1)(g) as an Exclusion Area for energy conversion facilities.

B. Comments Regarding Proposed Changes to N.D.A.C. § 69-06-08-01(4).

The Commission is proposing changing the sound level limit in N.D.A.C. § 69-06-08-01(4) from 50 dBA within 100 feet of an inhabited residence or community building to 45 dBA within 100 feet of an inhabited residence or community building. Geronimo asked RSG, a highly qualified firm that conducts pre- and post-construction wind energy facility noise assessments and acoustical research, to review and provide comments regarding proposed N.D.A.C. § 69-06-08-01(4). A Memorandum prepared by RSG with its

comments and recommendations is provided as **Attachment 1**. Geronimo requests that the Commission consider revising proposed N.D.A.C. § 69-06-08-01(4) as recommended by RSG on page 4 of the Memorandum.

Additionally, during the September 19, 2019 public hearing on the proposed change to N.D.A.C. § 69-06-08-01(4), testimony was provided and statements were made indicating that 40 dBA – rather than 45 dBA – may be a more appropriate sound limit for non-participating residences. Geronimo also asked RSG to comment on that testimony. In response, RSG notes on pages 3 and 4 of its Memorandum that noise complaints are tied to personal perception, and recent studies¹ indicate that the actual sound level is only one (and not even the strongest) factor leading to complaints. In fact, Mr. Hessler, himself, has testified that people may complain about turbine noise even when the emitted sound level could not be heard above the existing background noise.² In other words, complaints are often based on a number of subjective factors not tied to turbine sound. Thus, while the negative impact on wind development of establishing a sound level below 45 dBA would be significant, doing so would not necessarily result in a significant reduction in complaints.

Additionally, during the September 19, 2019 public hearing, references were made to 40 dBA being set as a sound limit for non-participating residences by the South Dakota Public Utilities Commission.³ Notably, 40 dBA was set as the sound limit for non-participating residences in only one docket with unique circumstances.⁴ In other South Dakota Public Utilities Commission siting dockets, the sound limit was either 50 dBA at participating residences and 45 dBA at non-participating residences, or 45 dBA at both.⁵

1 Please see **Attachment 2**, which provides copies of the documents cited in the Memorandum.

2 *In the Matter of the Application of Deuel Harvest Wind Energy LLC for a Permit of a Wind Energy Facility and a 345 kV Transmission Line in Deuel County*, Docket EL18-053, Evid. Hrg. (Hessler Testimony) (April 18, 2019).

3 The Crocker Wind Farm located in Clark County, South Dakota is a Geronimo project and was permitted on June 12, 2018.

4 *See In the Matter of the Application by Prevailing Wind Park, LLC for a Permit of a Wind Energy Facility in Bon Homme County, Charles Mix County and Hutchinson County, South Dakota, for the Prevailing Wind Park Project*, Docket EL18-026, Final Decision and Order Granting Permit to Construct Facilities and Notice of Entry with Attached Permit Conditions at 21-22 (November 28, 2018).

5 *See In the Matter of the Application by Crocker Wind Farm, LLC for a Permit of a Wind Energy Facility and a 345 kV Transmission Line in Clark County, South Dakota, for Crocker Wind Farm*, Docket EL17-055, Final Decision and Order Granting Permit to Construct Facilities and Notice of Entry at Condition 29 (June 12, 2018) (50 dBA at participating residences and 45 dBA at non-participating residences); *In the Matter of the Application by Dakota Range I, LLC and Dakota Range II, LLC for a Permit of a Wind Energy Facility in Grant County and Codington County, South Dakota, for the Dakota Range Wind Project*, Docket EL18-003, Final Decision and Order Granting Permit to Construct Wind Energy Facility; Notice of Entry with Attachment A at Condition 27 (July 23, 2018) (50 dBA at participating residences and 45 dBA at non-participating residences); *In the Matter of the Application of Dakota Range III, LLC for a Permit of a Wind Energy Facility and a 345-kV Transmission Line in Grant and Roberts Counties*, Docket EL18-046, Order

Additionally, in all but the one case, Mr. Hessler agreed with a sound level limit of 45 dBA at non-participating residences, even when intervenors advocated for a lower limit.⁶

For the reasons set forth above, Geronimo requests that the Commission establish a sound level limit that is supported by sound reasoning and analysis, and not to address a concern regarding potential complaints that, more likely than not, are not tied to sound at all. Specifically, Geronimo requests that the limit be no lower than 45 dBA, and that RSG's recommendations be incorporated into any changes made to N.D.A.C. § 69-06-08-01(4).

Granting Joint Motion for Approval of Settlement Stipulation and Granting Permits to Construct Facilities (February 22, 2018) and Approved Settlement Stipulation at Condition 27 (50 dBA within 25 feet of participating residences and 45 dBA within 25 feet of non-participating residences); *In the Matter of the Application of Deuel Harvest Wind Energy LLC for a Permit of a Wind Energy Facility and a 345-kV Transmission Line in Deuel County*, Docket EL18-053, Final Decision and Order Granting Permit to Construct Facilities; Notice of Entry at Condition 26 (May 30, 2019) (50 dBA within 25 feet of participating residences and 45 dBA within 25 feet of non-participating residences); *In the Matter of the Application by Sweetland Wind Farm, LLC for Facility Permits for a Wind Energy Facility and a 230-kV Transmission Facility in Hand County, South Dakota for the Sweetland Wind Farm Project*, Docket EL19-012, Order Granting Joint Motion for Approval of Settlement Stipulation; Order Granting Permit to Construct Facility; Notice of Entry (July 31, 2019) and Approved Settlement Stipulation at Condition 28 (50 dBA at participating residences and 45 dBA at non-participating residences); *In the Matter of the Application by Triple H Wind Project, LLC for a Permit of a Wind Energy Facility in Hyde County, South Dakota*, Docket EL19-007, Final Decision and order Granting Permit to Construct Facility; Notice of Entry With Permit Conditions at Condition 26 (July 24, 2019) (45 dBA within 25 feet of any residence).

⁶ See, e.g., *In the Matter of the Application by Crocker Wind Farm, LLC for a Permit of a Wind Energy Facility and a 345 kV Transmission Line in Clark County, South Dakota, for Crocker Wind Farm*, Docket EL17-055, Evid. Hrg. (Hessler Testimony) (May 10, 2018); *In the Matter of the Application by Dakota Range I, LLC and Dakota Range II, LLC for a Permit of a Wind Energy Facility in Grant County and Codington County, South Dakota, for the Dakota Range Wind Project*, Docket EL18-003, Evid. Hrg. (Hessler Testimony) (June 13, 2018); *In the Matter of the Application of Deuel Harvest Wind Energy LLC for a Permit of a Wind Energy Facility and a 345-kV Transmission Line in Deuel County*, Docket EL18-053, Evid. Hrg. (Hessler Testimony) (April 18, 2019).

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C. Conclusion.

Geronimo respectfully requests that the Commission consider the recommendations set forth above. If you have any questions, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Melissa Schmit".

Melissa Schmit,
Permitting Manager

Enclosures