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September 27, 2019

Via Hand Delivery and Electronic Mail

Mr. Steve Kahl
Executive Director
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480
ndpsc@nd.gov

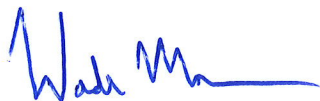
In re: Acciona Wind Energy USA LLC
Comments on Proposed Rulemaking
Case No. PU-19-291

Dear Mr. Kahl:

Enclosed for filing please find eleven copies of Acciona Wind Energy USA LLC's Comments on Proposed Rulemaking in the captioned case.

Please feel free to contact me if you have any questions. Thank you.

Sincerely,



Wade C. Mann

WCM/lh
Enc.

cc: Emilie Beavers (via email)
Casey Furey (via email)

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Wind Decommissioning
Rulemaking

PU-19-291

Acciona Wind Energy USA LLC's Comments on Proposed Rulemaking

Acciona Wind Energy USA LLC ("Acciona") submits the following comments in response to the North Dakota Public Service Commission's ("ND PSC") proposed rulemaking in Case No. PU-19-291.

Acciona is a renewable energy company with projects across the United States. Currently, two of Acciona's wholly-owned subsidiaries, Tatanka Wind Power, LLC ("Tatanka") and Velva Windfarm, LLC ("Velva"), own and operate wind energy facilities in North Dakota. Tatanka owns and operates a 180-megawatt ("MW") wind energy facility that extends between North and South Dakota. Tatanka's North Dakota operations are located in Dickey and McIntosh Counties and are comprised of sixty-one 1.5 MW turbines. Velva operates an 11.88 MW wind energy facility in McHenry County comprised of 18 0.66 MW turbines. At the time the Tatanka and Velva facilities were constructed, both facilities fell below the Commission's jurisdictional siting thresholds.

The proposed rulemaking would extend the Commission's decommissioning rules to nonpermitted facilities including, Tatanka and Velva. Acciona does not object to the extension of the Commission's decommissioning rules to nonpermitted facilities, and in fact, has complied with the existing provisions as if they apply to nonpermitted facilities. However, Acciona objects to the Commission's proposal to remove existing Section 69-09-09-08(5)(b)(2) from Chapter 69-09-09 of the North Dakota Administrative Code which would eliminate the financial criteria an entity may qualify under in order to provide the Commission with a parent guarantee for decommissioning. Currently, Section 69-09-09-08(5)(b) states that the Commission may accept a parent guarantee if:

b. The owner or parent guarantor has or is one of the following:

- (1) A current rating in the "A" category or higher for its most recent bond issuance or issuer rating as issued by Moody's Investors Service, Standard and Poor's Corporation, or an equivalent rating by any other nationally recognized statistical rating organization, as defined and approved by the United States securities and exchange commission, that is acceptable to the commission. If an organization has different ratings among various rating organizations, the commission shall accept the higher of the ratings;

- (2) A tangible net worth of at least ten million dollars, a ratio of total liabilities to net worth of 2.5 or less, and a ratio of current assets to current liability of 1.2 or greater; or
- (3) An electric public utility as defined by subsection 2 of North Dakota Century Code section 49-03-01.5.

Acciona is neither a credit-rated entity nor is it a public utility; however, Acciona does meet the financial criteria in Section 69-09-09-08(5)(b)(2). According to the testimony of ND PSC staff member Jerry Lein, the sole reason Section 69-09-09-08(5)(b)(2) is proposed to be eliminated is because the requirements in Section 69-09-09-08(5)(b)(1), which govern credit ratings, have been deemed sufficient. *See* PU-19-291, Docket No. 15. This statement does not hold true for Acciona. Acciona is not rated by a credit agency. Companies pay to have credit agencies do an analysis and provide a credit rating, but that process is quite costly, which cost is ongoing for the continued maintenance of a credit rating. Many companies choose to forego a credit rating and will instead rely upon parent guarantees, which are evaluated based upon the balance sheets and financials of the applicable guarantor to demonstrate financial stability. As previously stated, if § 69-09-09-08(5)(b)(2) is removed as proposed, Acciona (and presumably many other companies) would not be able tender a parent guarantee to the Commission, but Acciona (and again, presumably many other companies) have a balance sheet that would more than support a parent guarantee. No additional testimony or evidence has been submitted by the Commission that creates a rational basis for removing Section 69-09-09-08(5)(b)(2). For the reasons discussed herein, Acciona respectfully objects to the proposed elimination of Section 69-09-09-08(5)(b)(2).