

August 31, 2022

VIA E-MAIL AND FEDERAL EXPRESS

Mr. Steven Kahl
Executive Secretary
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480

**RE: Bowman Wind, LLC's Application for a Certificate of Site Compatibility for the Bowman Wind Project, Bowman County, North Dakota
Case No. PU-21-121**

Dear Mr. Kahl:

On August 19, 2022, the North Dakota Public Service Commission ("Commission") held a working session on Bowman Wind, LLC's ("Bowman Wind") Application for a Certificate of Site Compatibility ("Application") for the Bowman Wind Project ("Project"). During the course of the working session, several questions were raised by the Commission that they requested Bowman Wind answer via Commission Staff. Additionally, Bowman Wind noted several misstatements of fact and record made during the working session, raising concerns that the conclusions being reached were not based on accurate information.

Given the time that has passed since the public hearing on the Application, the addition of a new Commissioner since the hearing was conducted, and the questions raised and factual misstatements made during the working session, Bowman Wind respectfully requests that the Commission hold an informal hearing in this matter. Holding an informal hearing will allow a dialogue between the parties and the Commission that will help to refresh everyone's recollections of the record and enable Bowman Wind to directly respond to Commission questions, rather than attempting to provide responses through Commission Staff. Additionally, conducting an informal hearing may eliminate the need for, or appropriately limit the scope of, a second public hearing.

Bowman Wind's request for an informal hearing is specific to matters within the record that are properly before the Commission, and not to the topics discussed that are outside of the record in this matter. For example, there were discussions of letters from the Bowman County School District and the Bowman Slope Soil Conservation District received after the public hearing, as well as a lengthy discussion of speculative concerns regarding the impact of the Project on transmission

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capacity and existing generation resources. The Commission may not consider these topics absent compliance with the process to admit extra-record information set forth in NDCC § 28-32-25 (emphasis added):

28-32-25. Adjudicative proceedings - Consideration of information not presented at a hearing. In any adjudicative proceeding, an administrative agency may avail itself of ***competent and relevant information or evidence*** in its possession or furnished by members of its staff, or secured from any person in the course of an independent investigation conducted by the agency, in addition to the evidence presented at the hearing. ***It may do so after first transmitting a copy of the information or evidence or an abstract thereof to each party of record in the proceeding. The agency must afford each party, upon written request, an opportunity to examine the information or evidence and to present its own information or evidence and to cross-examine the person furnishing the information or evidence. Any further testimony that is necessary shall be taken at a hearing to be called and held, giving at least ten days' notice.*** Notice must be served upon the parties in the manner allowed for service under the North Dakota Rules of Civil Procedure. This section also applies to information officially noticed after the hearing when the issuance of any initial or final order is based in whole or in part on the facts or material noticed.

To date, this process has not been utilized, so the extra-record information cannot be considered or used as the basis for the Commission's decision. Furthermore, if provided the opportunity, Bowman Wind would oppose adding this information to the record, as it is not timely (the public hearing occurred almost a year ago), is sufficiently addressed by evidence already in the record, and/or is outside of the Commission's siting jurisdiction.

An electronic copy of this letter was filed with the Commission today via e-mail, and an original and six (6) copies of this letter were sent to the Commission via Federal Express.

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If you have any questions, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Mollie M. Smith". The signature is written in black ink and is positioned above the printed name.

MOLLIE M. SMITH

MMS/ms/77004157
Enclosure

cc: Judge Timothy Dawson (via e-mail)
Adam Renfandt (via e-mail)
Brian Johnson (via e-mail)
Kevin Pranis (via e-mail)
Brenna Gunderson (via e-mail)
Scott Jansen (via e-mail)

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Case No. PU-21-121

**IN THE MATTER OF BOWMAN WIND, LLC'S
APPLICATION FOR A CERTIFICATE OF SITE
COMPATIBILITY FOR THE BOWMAN WIND
PROJECT, BOWMAN COUNTY, NORTH
DAKOTA**

CERTIFICATE OF SERVICE

Malinda Maier, being first duly sworn, does depose and state that on August 31, 2022, this Certificate of Service and a true and correct copy of Bowman Wind, LLC's Letter Requesting an Informal Hearing were sent by electronic mail to:

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

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Mr. Kevin Pranis
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and sent via Federal Express to:

Steven Kahl

Executive Secretary
North Dakota Public Service
Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480
(7 copies)

/s/ Malinda Maier

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