

September 21, 2023

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: Northern States Power Company
Border Winds Energy Project – Rolette County
Case Nos. PU-22-173**

Dear Mr. Kahl:

In its October 27, 2022 Order in the above-referenced docket, the North Dakota Public Service Commission granted a variance of the nonparticipating property line exclusion area for Turbine T-57 conditioned upon Northern States Power Company filing a copy of a written waiver from the affected landowner prior to installation of repower technology on the turbine. In accordance with that provision, enclosed for filing are two (2) copies of this letter and the nonparticipating property line setback waiver executed by the affected landowner.

Electronic copies of the enclosed waiver and this letter were filed with the Commission today via e-mail. If you have any questions, please let me know.

Sincerely,



MOLLIE M. SMITH

MMS/80264703

Enclosures

cc: Victor Schock (w/ enclosure, via e-mail)
Brian Johnson (w/ enclosure, via e-mail)
Ellen Heine (w/ enclosure, via e-mail)

PREPARED BY AND
AFTER RECORDING RETURN TO:
Northern States Power Company
414 Nicollet Mall
Minneapolis, MN 55401
Attention: Chad Peterson
(612) 330-7825

NEIGHBOR AGREEMENT

THIS NEIGHBOR AGREEMENT (this “**Agreement**”), is dated and effective as of September 5, 2023 (“**Effective Date**”), by and between Wade Good, a single person (“**Owner**”) with a mailing address of 810 6th St. NE, Rolla, ND 58367, and Northern States Power Company, a Minnesota corporation (“**Grantee**”), with a mailing address of 414 Nicollet Mall, Minneapolis, MN 55401. Owner and Grantee may each be referred to herein individually as a “**Party**” and collectively as the “**Parties**”.

RECITALS:

A. Owner is the owner of that certain real property located in Rolette County, North Dakota, as more particularly described on the attached Exhibit A (the “**Owner Property**”).

B. Grantee owns, operates, and maintains a wind energy generation project (as determined by Grantee from time to time, in Grantee’s sole discretion, the “**Project**”) on certain additional real property located adjacent to and in the vicinity of the Owner Property (collectively, the “**Project Property**”) consisting of wind energy conversion turbines, electrical collection, distribution, and transmission lines and related facilities, roads, and related equipment and facilities (collectively, “**Windpower Facilities**”).

C. Grantee intends to install new turbine technology within the Project, including new, longer turbine blades (“**Project Upgrades**”). The Project’s turbine locations will not change, but the Project Upgrades will increase the overall height of the turbines (due to the increased blade length) and result in one or more turbine(s) on Project Property being within 1.1 times the height of the turbine from a property line of the Owner Property.

D. Owner is willing to grant to Grantee certain setback waivers as to the Owner Property related to Grantee's Project on the Project Property, as set forth in this Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree that the Recitals set forth above are hereby incorporated into the Agreement and further agree as follows:

1. **Setback Waiver.** To the fullest extent allowed by any law (including, but not limited to, North Dakota Century Code Section 49-22-05.1(4)), ordinance (including, but not limited to, the Rolette County Zoning Ordinance), regulation, rule (including, but not limited to, North Dakota Administrative Code Section 69-06-08-01(2)(a)(5)), or permit that establishes minimum setbacks from the exterior boundaries of the Owner Property for Windpower Facilities (collectively, the "**Property Line Setbacks**"), Owner agrees to waive and hereby does waive any and all such Property Line Setbacks for the benefit of Grantee, the owners of the real property on which Windpower Facilities within the Project are now or at any time hereafter located, and their respective successors and assigns. Owner supports the North Dakota Public Service Commission granting a variance to Grantee for the Project with respect to the Property Line Setbacks.

2. **Cooperation.** Owner agrees to not publicly oppose or otherwise object to the Project and to execute and deliver such reasonably requested documents and take such action as may be reasonably requested by Grantee to carry out the purposes and intent of this Agreement to waive the setback requirements described in Section 1 and enforcement thereof with respect to the Participating Property, the Project, and the Project Property. If Owner has any concerns regarding the Project, Owner will communicate directly with Grantee to resolve the issues, and Grantee will respond to any such concerns within thirty (30) days of receipt of any such communication from Owner. Owner acknowledges and understands that the Windpower Facilities to be located on the Participating Property may impact the view on the Owner Property, and Owner covenants and agrees that Owner shall not assert that the Windpower Facilities sited on the Participating Property constitute a nuisance or that any such Windpower Facilities interfere with Owner's use and quiet enjoyment of the Owner Property.

3. **Term of Agreement.** The term of this Agreement (the "**Term**") shall commence on the Effective Date and shall expire upon the earlier to occur of: (a) the date that is fifty (50) years after the first day of the month following the month in which the Windpower Facilities were 100% available to begin delivering full commercial quantities of electricity to the power grid; or (b) the date on which the Windpower Facilities have been decommissioned as required under applicable governmental permits. Upon expiration of the Term, this Agreement shall terminate, the parties shall have no further obligations hereunder, and Grantee shall be authorized to file a termination of this Agreement in the Office of the Recorder of Rolette County, North Dakota.

4. **Consideration.** The consideration for the covenants and agreements of Owner and the setback waiver granted by Owner pursuant to this Agreement is set forth on the attached Exhibit B, which Exhibit B shall be removed before recording this Agreement in the real property records of Rolette County, North Dakota. Owner and Grantee agree that such removal of Exhibit B prior to recording shall not affect the validity of this Agreement.

5. **Termination.** Grantee shall have the right, at any time during the Term, to terminate this Agreement as to all or any part of the Owner Property by providing written notice to Owner, and upon such termination, the parties shall have no further obligations hereunder. Following any such termination, Grantee is authorized to file a termination of this Agreement in the Office of the Recorder of Rolette County, North Dakota.

6. **Authority; Title.** Owner represents and warrants that it is the sole owner of the Owner Property and has the unrestricted right and authority to execute this Agreement and to grant to Grantee the waiver and other rights granted hereunder. Each person signing this Agreement on behalf of Owner is authorized to do so, and all persons having any ownership or interest in the Owner Property have signed this Agreement on behalf of Owner. Owner warrants and represents that Owner is the sole owner of the Owner Property in fee simple, and each person or entity signing this Agreement on behalf of Owner has the full and unrestricted authority to execute and deliver this Agreement.

7. **Assignment.** Grantee shall have the right at any time, without need for consent from Owner, to assign or convey all or any portion of this Agreement to an assignee or assignees, on an exclusive or nonexclusive basis, or to mortgage or collaterally assign all or any part of its interest in the Agreement and its rights under the Agreement to any entity (each a "**Mortgagee**" and collectively, "**Mortgagees**"). Grantee may mortgage or encumber any part of Grantee's rights and interests under the Agreement without the need for consent from Owner, provided that any such mortgage attaches only to Grantee's rights and does not otherwise attach to the Owner Property or Participating Property.

8. **Notice.** All notices, requests, demands, waivers, approvals, consents and other communications required or permitted by this Agreement shall be given in writing by personal delivery (confirmed by courier delivery service) or first-class U.S. mail, postage prepaid, return receipt requested, certified, addressed as follows:

If to Owner:

Wade Good
810 6th Street NE
Rolla, ND 58367

If to Grantee:

Northern States Power Company
Attn: Manager, Siting and Land Rights
414 Nicollet Mall
Minneapolis, MN

Phone: (612) 330-7732

Any party may change its address for purposes of this paragraph by giving notice of such change to the other parties in the manner provided in this Section 8. Any notice provided for herein shall become effective only upon actual receipt by the party to whom it is given, unless such notice is mailed by certified mail, return receipt requested, in which case it shall be deemed to be received five (5) business days after the date mailed.

9. **Recording.** Owner and Grantee agree that this Agreement may be recorded by Grantee in the real property records of Rolette County, North Dakota. Owner authorizes Grantee to record and place of record in the real property records of Rolette County, North Dakota, an instrument in recordable form containing a diagram, survey, or map depicting the Owner Property or any portion thereof to supplement this Agreement; provided, however, that Grantee is not obligated to record any such diagram, survey, or map. Grantee agrees that any such diagram, survey, or map shall not modify the terms of the Agreement other than giving notice of any such depictions.

10. **Covenants Running With the Land.** All of the covenants and agreements contained in this Agreement touch and concern the Owner Property and are expressly intended to be and shall be covenants running with the land and shall be binding and a burden upon the Owner Property and each Parties' present or future estate or interest therein and upon each of the Parties, their respective heirs, administrators, executors, legal representatives, successors and permitted assigns as holders of an estate or interest in the Owner Property (including without limitation, any lender or other person acquiring title from any such person upon foreclosure or by deed in lieu of foreclosure), and shall benefit Grantee, its respective successors and assigns, and the Project Property.

11. **Miscellaneous.** This Agreement shall be governed by the laws of the State of North Dakota. This Agreement constitutes the entire agreement between Grantee and Owner with respect to the subject matter hereof and supersedes any and all prior oral or written understandings, representations or statements among the parties with respect to the subject matter hereof. This Agreement may not be amended except in a writing executed by both parties. This Agreement may be executed in two or more counterparts and by different parties on separate counterparts, all of which shall be considered one and the same agreement and each of which shall be deemed an original. Nothing herein shall be deemed to create a joint venture or partnership between parties hereto. In the event of breach of this Agreement, Grantee shall be entitled to all remedies provided at law or in equity, including injunctive relief. The prevailing party in any action arising out of, or in connection with, this Agreement shall be entitled to be reimbursed its costs and expenses, including reasonable attorney fees, by the non-prevailing party. NEITHER PARTY SHALL BE ENTITLED TO, AND OWNER AND GRANTEE HEREBY WAIVE ANY AND ALL RIGHTS TO RECOVER, CONSEQUENTIAL, INCIDENTAL, AND PUNITIVE OR EXEMPLARY DAMAGES, HOWEVER ARISING, WHETHER IN CONTRACT, IN TORT, OR OTHERWISE, UNDER OR WITH RESPECT TO ANY ACTION TAKEN IN CONNECTION WITH THIS AGREEMENT.

[Signature pages follow.]

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have signed this Agreement as of the Effective Date.

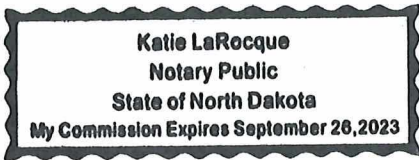
OWNER:

By: *Wade Good*
Name: Wade Good

STATE OF North Dakota)
) ss.
COUNTY OF Rolette)

On this 5th day of September, 2023, before me, the undersigned officer, personally appeared Wade Good, a single person, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purpose therein contained.

Witness my hand and official seal.



Katie LaRocque
Notary Public North Dakota
(State)
My commission expires: 9/26/2023

EXHIBIT A

Legal Description of the Owner Property

The Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4) of Section 15, and the South Half (S1/2) of the Northeast Quarter (NE1/4) and the Northwest Quarter (NW1/4) of the Northeast Quarter (NE1/4) of Section 22, all in Township 163 North, Range 69 West of the Fifth Principal Meridian, Rolette County, North Dakota.