

February 23, 2024

Via Electronic Mail & U.S. Mail

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

In re: Oliver Wind IV, LLC
Oliver Wind IV 345-kV Transmission Line - Oliver & Mercer Counties
Siting Application
Case No. PU-23-318
OAH File No. 20230357
Our File No. 035218-000083

Dear Mr. Kahl:

Enclosed for filing in the above-referenced matter, please find eight copies of the Proposed Findings of Fact, Conclusions of Law and Order.

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

Sincerely,



Casey A. Furey

CAF/lh
Enc.

cc: ALJ Timothy Dawson (via email and USPS) Kevin Pranis (via email)
Robert Frank (via email) Tracy Davis (via email)
Brian Johnson (via email) Erik Edison (via email)

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

**Oliver Wind IV, LLC
345-kV Transmission Line – Oliver & Mercer Counties
Siting Application**

Case No. PU-23-318

PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

February ____, 2024

Appearances

Commissioners Randy Christmann, Julie Fedorchak, and Sheri Haugen-Hoffart.

Casey A. Furey and Erik J. Edison, Crowley Fleck PLLP, 100 West Broadway Avenue, Suite 250, Bismarck, North Dakota 58501, on behalf of Applicant Oliver Wind IV, LLC.

Tracy C. Davis, NextEra Energy Resources, LLC, 5920 W. William Cannon Dr., Building 2, Austin, Texas 78749, on behalf of Applicant Oliver Wind IV, LLC.

Brian L. Johnson, Special Assistant Attorney General, 600 E. Boulevard Ave., Dept. 408, Bismarck, North Dakota 58505-0480, North Dakota Public Service Commission.

Kevin Pranis, 81 East Little Canada Road, St. Paul, Minnesota 55117, Marketing Manager and Representative of Intervenor, Laborers District Council of Minnesota and North Dakota.

Timothy Dawson, Administrative Law Judge (“ALJ”), Office of Administrative Hearings, 2911 North 14th Street, Suite 303, Bismarck, North Dakota 58503, as Procedural Hearing Officer.

Preliminary Statement

On September 28, 2023, in Case No. PU-23-318, Oliver Wind IV, LLC (“Oliver Wind IV”) filed an Application for a Certificate of Corridor Compatibility and Route Permit to construct the approximately 19.5-mile Oliver Wind IV 345 kilovolt (“kV”) transmission line and associated facilities (the “Transmission Project”) in Oliver and Mercer Counties, North Dakota (the “Application”).

On September 28, 2023, in Case No. PU-23-317, Oliver Wind IV filed an Application for a Certificate of Site Compatibility for an approximately 200 megawatt (“MW”) wind energy conversion facility known as the Oliver Wind IV Energy Center (the “Wind Project”), to be located in Oliver County, North Dakota. The transmission line extends from the Wind Project collection substation in Oliver County to the new Basin Electric Power Cooperative (“Basin”) Leland Olds Substation located in Mercer County.

On December 13, 2023, the North Dakota Public Service Commission (the “Commission”) consolidated Case Nos. PU-23-317 and PU-23-318 for public hearing and deemed the applications for the Wind Project and the Transmission Project (collectively, the “Projects”) complete.

Also on December 13, 2023, the Commission issued a Notice of Filing and Notice of Consolidated Hearing (the “Notice”) for the Projects and scheduled a public hearing for January 29, 2024, at 10:00 a.m. Central Time, at the Betty Hagel Memorial Civic Center, 312 Lincoln Avenue, Center, ND 58530.

The Notice identified the issues to be considered in Case Nos. PU-23-317 and PU-23-318 as follows:

1. Will the location and operation of the proposed facilities produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?
2. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?
3. Will the proposed facility locations minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

On January 11, 2024, the Laborers District Council of Minnesota and North Dakota (“LIUNA”) filed a Petition to Intervene in Case Nos. PU-23-317 and PU-23-318.

On January 22, 2024, ALJ Dawson issued an Order granting LIUNA’s Petition to Intervene.

On January 29, 2024, a public hearing on the applications for the Projects (the “Hearing”) was held as scheduled in Center, North Dakota.

Exhibits 1 through 21 were entered into the record by Oliver Wind IV at the Hearing.

Exhibit 22 was entered into the record by Jayar Kindsvogel, President, Center Machine Inc. at the Hearing.

On February 6, 2024, Oliver Wind IV filed Late-Filed Exhibit 23.

On February 23, 2024, Oliver Wind IV filed Late-Filed Exhibits 24-26.

Having allowed all interested persons an opportunity to be heard, and having heard, reviewed, and considered all testimony and evidence presented, the Commission makes the following:

Findings of Fact

1. Oliver Wind IV, LLC is a Delaware limited liability company and is a wholly-owned, indirect subsidiary of NextEra Energy Resources, LLC.

2. Oliver Wind IV is authorized to transact business in the State of North Dakota, as evidenced by the Certificate of Good Standing issued by the North Dakota Secretary of State and filed with the Commission in Case No. PU-23-319.

3. The Transmission Project will be owned and operated by Oliver Wind IV, LLC.

Size, Type and Preferred Location of Facility

4. Oliver Wind IV proposes to construct, own, and operate the Transmission Project, an approximately 19.5-mile long 345 kV electric transmission line and associated facilities of which approximately 10.8 miles are located in Oliver County and approximately 8.7 miles are located in Mercer County, North Dakota.

5. The project corridor is generally 150 feet wide with additional width at structures with guy wires (the “Project Corridor”) and encompasses approximately 379 acres. The Transmission Project will originate at the Wind Project collection substation in Oliver County and terminate at the interconnection to the new Basin Leland Olds Station 345-kV Substation (“LOS”) in Mercer County, North Dakota.

6. Oliver Wind IV has entered into a 15-year power purchase agreement with Verizon Communications, Inc. for the full output of energy produced at the Wind Project.

7. The Transmission Project will be constructed using approximately 121 transmission line structure locations, which includes steel monopole structures and four tri-pole dead-end structures. The average height of a single pole structure is 120 feet and will range from 100 to 170 feet. Structure foundation types include direct embed used for tangent structures and drilled shaft with concrete foundations used for angle and dead-end structures. Structure spans will range from 200 feet to 1,200 feet with an average span of approximately 900 feet.

8. The Transmission Project includes an overhead Optical Ground Wire (“OPGW”), and an Overhead Shield Wire (“OHSW”). The OPGW and OHSW will provide lightning protection and fiber optic communications between the Wind Energy Center collection substation and the LOS for systems control.

9. The Transmission Project will meet the requirements of the National Electrical Safety Code (“NESC”).

10. Oliver Wind IV has executed or pending agreements for all easements and land agreements necessary for the siting and construction of the Transmission Project. Two easements from Great River Energy and Basin will be finalized upon Transmission Project approval from the Commission. Remaining pending agreements will be executed prior to the start of construction for which such authorization is required.

11. Oliver Wind IV anticipates a December 2024 in-service date for commercial operations of the Transmission Project.

12. The estimated total cost to construct the Transmission Project is approximately \$45 million.

Study of Preferred Location

13. Oliver Wind IV sent coordination letters to the federal, state, and local departments, agencies, and entities designated in N. D. Admin. Code § 69-06-01-05. North Dakota Century Code Section 49-22-16(4) provides that compliance with an agency's rules shall be presumed if the agency fails to present its position with respect to the proposed facility at least thirty days before the public hearing. The federal, state, and local departments, agencies, and entities that provided comment in response are as follows:

- a. Federal: Office of the Assistant Secretary of Defense - Military Aviation and Installation Assurance Siting Clearinghouse; United States Fish and Wildlife Service; United States Army Corps of Engineers; United States Department of Agriculture – Natural Resources Conservation Service; and, United States Minot Air Force Base.
- b. State: Aeronautics Commission; Department of Agriculture; Game and Fish Department; Industrial Commission; Department of Transportation; State Historical Society of North Dakota; Department of Trust Lands; Parks and Recreation Department; Department of Water Resources; Department of Environmental Quality; and, North Dakota Geological Survey.
- c. Local: Mercer County; and, Oliver County.

14. Agency consultations and comments are noted in the Application, exhibits, and testimony presented at the public hearing. Oliver Wind IV has avoided, minimized, and mitigated impacts for all issues raised by state or federal agencies.

15. Oliver Wind IV coordinated with, and received a response from, the National Telecommunications and Information Administration issuing a No Harmful Interference Anticipated determination that the Transmission Project is not anticipated to interfere with telecommunications.

16. The Project will not be considered an obstruction to air navigation under Federal Aviation Administration ("FAA") regulations. No part of the Transmission Project will exceed 200 feet in height above ground level. The Transmission Project will include bird diverters, which can provide visibility during the day for low flying aircraft.

17. Oliver Wind IV received a response from the U.S. Dept. of Defense indicating that the Transmission Project will have minimal impact on military operations conducted in the area.

18. Oliver Wind IV has obtained conditional use permits from Oliver and Mercer Counties for the Transmission Project. Oliver Wind IV testified that when Oliver County issued a conditional use permit for the Transmission Project, it referenced the incorrect corridor width for the Transmission Project. Oliver Wind IV testified it will work with Oliver County to obtain any necessary corrections to the existing conditional use permit.

19. The study corridor for the Transmission Project consisted of a one-mile-wide corridor centered on the Transmission Project route (“Study Area”). The Study Area is in rural North Dakota in an area predominantly comprised of cultivated land, hayfields, pasturelands, and grasslands.
20. Oliver Wind IV performed a desktop evaluation on the Study Area for soils, wetlands and waterbodies, trees and shrubs, and protected species and critical habitats.
21. Oliver Wind IV conducted a Class I Literature Search for the Project Corridor plus a one-mile buffer to identify previously recorded archaeological sites identified during previous surveys.
22. Oliver Wind IV conducted Class III Cultural Resource Inventories from 2019 to 2023 for areas to be temporarily and permanently impacted by the Transmission Project and within the Project Corridor. The Class III reports were submitted to the North Dakota State Historical Preservation Office (“SHPO”). On June 21, 2021 and January 19, 2024, SHPO issued letters for archaeological resources located within the Transmission Project Corridor and determined “there are no adverse direct effects on significant sites.”
23. Oliver Wind IV undertook voluntary outreach and consultation with Native American Tribes to address potential cultural concerns and avoid potential impacts to resources of tribal or cultural significance.
24. Oliver Wind IV conducted a natural resource field survey within the Project Corridor. The field survey gathered information on soils, land use and vegetation, wetlands and waterbodies, woodlands, trees and shrubs, and wildlife, including protected species and critical habitats.
25. Oliver Wind IV filed the following reports in support of its Application, which contain the results of various wildlife and habitat surveys and studies, as follows:
 - a. Sharp-tailed Grouse Lek Surveys: Oliver Wind IV completed two years of aerial and ground sharp-tailed grouse lek surveys. Two confirmed leks were documented within the Study Area during the 2019 and 2020 surveys. Among these leks, none were located within the Project Corridor.
 - b. Raptor Nest Surveys: Oliver Wind IV conducted two years of aerial and ground raptor nest surveys in 2020 and 2022. Surveys concluded there were no eagle nests in the Project Corridor and one active non-eagle raptor nest within the Project Corridor.
 - c. Whooping Crane Habitat Assessment: Oliver Wind IV conducted a whooping crane habitat assessment to evaluate potential whooping crane habitat use. The assessment concluded the probability of use is low in any given year and that impacts are unlikely.
 - d. Dakota Skipper Habitat Assessment: Oliver Wind IV conducted a Dakota skipper habitat assessment. The assessment identified and described approximately 0.1 acre of suitable Dakota skipper habitat within the Project

Corridor. Impacts to this habitat will be avoided and adverse impacts to Dakota skipper are not anticipated.

- e. Northern Long-Eared Bat Surveys: Oliver Wind IV conducted northern long-eared bat (“NLEB”) desktop habitat assessment and presence/absence surveys in support of the Transmission Project. To minimize potential impacts on the NLEB and its roosting habitat during the active season, restrictions on tree removal will be in effect within a three-mile conservation buffer around the two NLEB positive locations that intersect the Study Area from April 1 to October 31. No adverse impacts are anticipated.
- f. Wetlands and Other Waters Delineation Report: Oliver Wind IV conducted surveys to identify and describe wetlands and other waters delineated in the Project Corridor. The Transmission Project is not expected to impact wetlands or other waters.

26. Oliver Wind IV used the U.S. Fish and Wildlife Service (“USFWS”) Information for Planning and Conservation tool to identify threatened or endangered species or designated critical habitat within the Study Area. This tool identified five threatened or endangered species that could potentially occur within the Study Area: piping plover (threatened), rufa red knot (threatened), whooping crane (endangered), Dakota skipper butterfly (threatened), and northern long-eared bat (“NLEB”) (endangered). Oliver Wind IV’s studies and surveys concluded the Transmission Project lacks suitable habitat for the piping plover and rufa red knot. Impacts are not anticipated to the whooping crane, Dakota skipper butterfly, and NLEB based on Oliver Wind IV’s siting and mitigation measures. Adverse impacts to these species are not anticipated. No designated critical habitat for threatened or endangered species is located within the Transmission Project.

27. Oliver Wind IV is developing a voluntary Wildlife Conservation Strategy, which includes an adaptive management approach so that information gathered and experience gained from post-construction monitoring can be used to inform future management decisions at the Transmission Project.

28. Trees and shrubs are sparsely located within the Project Corridor, and Oliver Wind IV has avoided impacts to trees and shrubs to the extent practicable. Oliver Wind IV has requested an amendment to the Commission’s Tree and Shrub Mitigation Specifications to allow for clearance of up to 150 feet in width consistent with the requested Project Corridor for the safety of facility infrastructure and monitoring purposes. Tree or shrub removal and replacement will be coordinated with landowners and conducted in accordance with the Commission’s Tree and Shrub Mitigation Specifications.

Siting Criteria

29. The Commission has established criteria pursuant to North Dakota Century Code § 49-22-05.1 to guide the Commission in evaluating the suitability of granting a Certificate of Corridor

Compatibility and Route Permit. The criteria, as set forth in North Dakota Administrative Code § 69-06-08-02 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

30. Oliver Wind IV evaluated the Transmission Project and Project Corridor with respect to the Exclusion, Avoidance, Selection, and Policy Criteria of the Commission.

31. A route for a transmission facility must not be sited within an Exclusion Area. Exclusion Areas may be located within the corridor, but at no given point may such an area or areas encompass more than fifty percent of the corridor unless there is no reasonable alternative.

32. With respect to Exclusion Areas, Oliver Wind IV identified archeological sites through a Class I Literature Search and a Class III Cultural Resources Inventory. Designated and registered archaeological sites are located within the Project Corridor; however, Oliver Wind IV has sited the Transmission Project to avoid these sites.

33. No additional known Exclusion Areas are located within the Project Corridor.

34. An Avoidance Area is a geographical area that may not be considered in the routing of a transmission facility unless the applicant shows that, under the circumstances, there is no reasonable alternative. In determining whether an Avoidance Area should be designated for a transmission facility, the Commission may consider, among other things, the proposed management of adverse impacts, the orderly siting of facilities, system reliability and integrity, the efficient use of resources, and alternative routes.

35. Areas within 500 feet of an inhabited rural residence are designated as an Avoidance Area. Pursuant to North Dakota Century Code § 49-22-05.1(2), the 500-foot Avoidance Area for an inhabited rural residence may be waived by the owner of the residence in writing.

36. No inhabited rural residence, school, or place of business is located within the 500-foot Avoidance Area.

37. Areas that are geologically unstable are an Avoidance Area. Areas deemed as landslide deposits mapped by the North Dakota Geological Survey are within the Project Corridor. Oliver Wind IV will avoid areas that are geologically unstable, and no transmission line structures are located within a mapped landslide deposit, as indicated by the North Dakota Geological Survey landslide mapping program.

38. No additional known Avoidance Areas are located within the Project Corridor.

39. In accordance with the Commission's Selection Criteria, a transmission facility may be approved in an area when/if it is demonstrated to the Commission by the applicant that any significant adverse effects that will result from the location, construction, and operation of the facility in that area as they relate to the criteria designated in N.D. Admin. Code § 69-06-08-02(3) will be at an acceptable minimum, or will be managed and maintained at an acceptable minimum.

40. Wetland delineations were completed within the Project Corridor. Based on the wetlands and other waters delineation surveys, the Transmission Project will avoid direct impacts to wetlands.
41. The Project Corridor lacks large, contiguous woodlands. Oliver Wind IV has sited the Transmission Project to avoid impacts to woodlands.
42. In accordance with the Commission's Policy Criteria, the Commission may give preference to an applicant that will maximize benefits that result from the adoption of identified policies and practices in N.D. Admin. Code § 69-06-08-02(4). The Commission may also give preference to an applicant that will maximize interstate benefits.
43. Oliver Wind IV submitted evidence that the Transmission Project will not have a significant adverse impact on the Selection Criteria set forth in N.D. Admin. Code § 69-06-08-08(3). Additionally, Oliver Wind IV committed to maximizing the benefits of the Transmission Project to the extent practicable to meet the Policy Criteria set forth in N.D. Admin. Code § 69-06-08-02(4).
44. The Transmission Project and associated facilities are expected to result in minimal permanent disturbance and surface occupation of less than one acre of land. No landowners will be displaced by the Transmission Project. Oliver Wind IV will continue to work with landowners to minimize land use disruptions from the Transmission Project. No impacts to irrigation or quality of agricultural land are anticipated.
45. Oliver Wind IV will utilize best management practices to minimize impacts on ground and surface water, and to prevent soil erosion. Erosion control measures required under the National Pollution Discharge Elimination System permit and the associated Stormwater Pollution Prevention Plan will be implemented. Construction of the Transmission Project is not anticipated to have a significant adverse impact on surface or ground water resources or soils. Temporarily disturbed areas will be restored and reseeded.
46. During construction, the Transmission Project may result in a temporary increase in traffic on county and township roads. The increase in traffic during construction is not expected to be at a volume that will disrupt residents or travel in the Transmission Project area. During operation, no adverse effects to transportation facilities or networks are anticipated.
47. The Transmission Project will not have significant adverse impacts on the area's availability to provide law enforcement, government, health, education, community, and utility facilities or services.
48. Oliver Wind IV has extensively coordinated and consulted with the ND Game and Fish Department ("NDGFD") and the USFWS regarding avoidance, minimization, and mitigation related to habitat and wildlife as evidenced by Oliver Wind IV's Wildlife Coordination and Mitigation Measures Memorandum, Exhibit 9.

49. The Transmission Project will not have significant adverse impacts on temporary and permanent labor. Oliver Wind IV testified that it would work with its engineering, procurement, and construction contractors (“EPCs”) such that its EPCs will endeavor to utilize available local labor.

50. During the hearing, LIUNA witnesses provided testimony about the benefits of using local labor during project construction. Oliver Wind IV expressed a willingness to work with LIUNA and to make efforts to utilize local labor to the extent practicable.

51. The Transmission Project is expected to be of economic benefit to the affected area through the creation of construction, operation and maintenance jobs, direct payments to participating landowners, state and local tax revenue, and local expenditures.

52. Oliver Wind IV has an executed generator interconnection agreement with the Southwest Power Pool, Inc. and Basin Electric Power Cooperative (GEN-2016-130).

53. Oliver Wind IV will participate in the North Dakota One-Call Excavation Notice System.

Additional Measures to Minimize Impacts

54. Oliver Wind IV voluntarily engaged with personnel at the National Park Service (“NPS”) regarding the Transmission Project. In July 2023, the NPS identified possible indirect visual impacts the Transmission Project may have on views from the Knife River Indian Villages National Historic Site and the Fort Clark State Historic Site. Both sites are located outside of the Project Corridor. The Knife River Indian Villages is located approximately 3.2 miles north of the closest transmission structure and the Fort Clark State Historic Site is located approximately 1.7 miles east-southeast of the closest transmission structure. In response, Oliver Wind IV completed a viewshed analyses for the Transmission Project utilizing procedures outlined in the U.S. Bureau of Land Management visual resources management handbook, as suggested by the NPS. Oliver Wind IV provided the analyses to the NPS and SHPO. The analyses concluded the Transmission Project will not visually detract from the viewsheds of Knife River Indian Villages or Fort Clark State Historic Site because of the distance of the project’s features and the similarity of these features with other existing infrastructure on the landscape. On January 31, 2024, the SHPO issued correspondence stating it had reviewed the visual study provided by Oliver Wind IV, and “[does] not believe Fort Clark State Historic Site or the Knife River Indian Villages National Historic Site will be adversely impacted” by the Transmission Project (Case No. PU-23-318, Docket No. 31).

55. Oliver Wind IV has agreed to take steps to mitigate the impact of the Transmission Project. Oliver Wind IV executed a Certification Relating to Order Provisions and accompanying Tree and Shrub Mitigation Specifications, filed with the Commission as Exhibit 14.

56. Oliver Wind IV has developed a voluntary Wildlife Conservation Strategy to help fully evaluate risk to wildlife, document efforts taken to reduce potential impacts through avoidance and minimization efforts, establish post-construction efforts, and outline agreed-upon offsetting measures or mitigation.

57. The transmission line structures will span all suitable Dakota skipper habitat. Oliver Wind IV will avoid temporary and permanent impacts to field-verified suitable Dakota skipper habitat. High visibility fencing (e.g., snow fence) will be placed around field-verified suitable Dakota skipper habitat areas during construction.

58. Adverse impacts from the Transmission Project to bald and golden eagles are not anticipated. The closest known bald eagle nest to the Transmission Project identified during field surveys was 5.1 miles from the Project Corridor. Oliver Wind IV will conduct additional pre-construction surveys for previously unidentified eagle nests. Any newly found occupied or active eagle nests will be avoided by a minimum of 660 feet for bald eagles and 0.5-miles for golden eagle nests during construction until the nest becomes inactive.

59. Oliver Wind IV will follow Avian Power Line Interaction Committee suggested practices to avoid and minimize the potential for avian collisions and will install bird diverters on the transmission line.

60. During construction, Oliver Wind IV will provide contractors with static constraint maps that identify sensitive areas within the Project Corridor for avoidance. Oliver Wind IV will ensure compliance through onsite environmental construction monitoring.

61. Oliver Wind IV will reseed temporarily disturbed areas or restore to crop, based on the conditions of the area prior to construction and based on landowner preference, and will coordinate with the Oliver County and Mercer County Weed Boards to implement a voluntary noxious weed prevention plan to minimize the spread of noxious weeds during construction.

From the foregoing Findings of Fact, the Commission now makes the following:

Conclusions of Law

1. The Commission has jurisdiction over Oliver Wind IV and the subject matter of the Application under N.D.C.C. Ch. 49-22.
2. Oliver Wind IV is a “utility” as defined in N.D.C.C. § 49-22-03(14).
3. The Transmission Project is an “electric transmission” facility as defined in N.D.C.C. § 49-22-03(6).
4. The Application submitted by Oliver Wind IV meets the corridor and route evaluation criteria required by N.D.C.C. Ch. 49-22.
5. The location, construction, and operation of the Transmission Project will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
6. The location, construction, and operation of the Transmission Project are compatible with environmental preservation and the efficient use of resources.

7. The Transmission Project will minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.

From the foregoing Findings of Fact and Conclusions of Law, the Commission now makes the following:

Order

The Commission orders:

1. Certificate of Corridor Compatibility No. ___ is issued to Oliver Wind IV, LLC designating a corridor area typically 150 feet in width, with additional width at structures with guy wires, for the construction, operation, and maintenance of the Oliver Wind IV 345 kV transmission line and associated facilities in Oliver and Mercer Counties, North Dakota, as identified in Exhibit 2, Figure 13.

2. Route Permit No. ___ is issued to Oliver Wind IV, LLC designating a route in Oliver and Mercer Counties, North Dakota, for the construction and operation of an approximately 19.5-mile long 345 kV transmission line. The designated route for this purpose is as identified in Exhibit 2, Figure 13.

3. The Transmission Project Certification Relating to Order Provisions with accompanying Tree and Shrub Mitigation Specifications, filed with the Commission as Exhibit 14, is incorporated by reference and attached to this Order. The Tree and Shrub Mitigation Specifications may be modified upon the mutual agreement of the Commission and Oliver Wind IV. The Commission authorizes a maximum tree and shrub clearance width of 150 feet.

4. To the extent there are any conflicts or inconsistencies between the Oliver Wind IV Transmission Project Application and the Certification, the Certification provisions control.

5. If modifications are made to the Transmission Project Corridor, Oliver Wind IV shall complete a Class III Cultural Resource Survey for any previously un-surveyed portions of the designated site affected by Transmission Project-related construction activities, in accordance with SHPO guidance, and shall submit cultural resource finds to SHPO for review, and file a copy of SHPO's response with the Commission prior to beginning construction in said areas.

PUBLIC SERVICE COMMISSION

Julie Fedorchak
Commissioner

Randy Christmann
Chairman

Sheri Haugen-Hoffart
Commissioner