



# Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Jill Kringstad

600 East Boulevard Ave  
Dept. 408  
Bismarck, ND 58505-0480  
701-328-2400  
ndpsc@nd.gov

January 16, 2024

Casey A. Furey  
100 West Broadway, Suite 250  
P.O. Box 2798  
Bismarck, ND 58501

## NOTICE OF NONCOMPLIANCE

RE: Case No. PU-23-318  
Oliver Wind IV, LLC  
345-kV Transmission Line – Oliver & Mercer

On September 28, 2023, Oliver Wind IV, LLC filed a combined application for a Certificate of Corridor Compatibility and a Transmission Facility Route Permit for the location of an approximately 19.5 mile 345-kilovolt electrical transmission line. The project originates at the Oliver Wind IV Wind Energy Center and terminates at a substation located at Leland Olds Station.

On April 29, 2024, the Commission approved Findings of Fact, Conclusions of Law and Order, and issued Certificate of Corridor Compatibility 233 and Route Permit 243. Incorporated and attached to the Order was the Certification Relating to Order Provisions – Transmission Facility Siting (Certification) that Oliver Wind IV, LLC agreed to follow. Provision 42 of the Certification states “Company acknowledges and agrees that written authorization from the Commission for impacting the avoidance area is necessary prior to commencement of construction activity.”

On July 18, 2024, the Commission received a memorandum from Burns & McDonnell Engineering Company, Inc. and a copy of the response from the North Dakota State

Historic Preservation Office. The memorandum stated that three avoidance areas had been impacted by construction work.

North Dakota Century Code (N.D.C.C.) 49-22-07(1) states:

1. A utility may not begin construction of an electric energy conversion facility or an electric transmission facility in the state without first having obtained a certificate of site compatibility or a route permit from the commission pursuant to this chapter. The facility must be constructed, operated, and maintained in conformity with the certificate or permit and any terms, conditions, or modifications of the certificate or permit. A certificate or permit may be transferred, subject to the approval of the commission, to any person who agrees to comply with its terms, conditions, and modifications

Oliver Wind IV, LLC is in noncompliance with N.D.C.C. section 49-22-07(1) by not constructing the electric transmission facility in conformity with the conditions of the corridor certificate and route permit. Specifically, Oliver Wind IV, LLC failed to obtain written authorization from the Commission for impacting the avoidance areas prior to the commencement of construction activity as required by Provision 42 to the Certification.

N.D.C.C 49-22-21(3) states:

3. Any person who willfully engages in any of the following conduct is subject to a civil penalty of not to exceed ten thousand dollars for each such violation for each day the violations persist, except that the maximum penalty may not exceed two hundred thousand dollars for any related series of violations:
  - a) Begins construction of an electric energy conversion facility or an electric transmission facility without having been issued a certificate or permit pursuant to this chapter.
  - b) Constructs, operates, or maintains an electric energy conversion facility or an electric transmission facility other than in compliance with the certificate or permit and any terms, conditions, or modifications contained therein
  - c) Violates any provision of this chapter or any rule adopted by the commission pursuant to this chapter.
  - d) Falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained pursuant to a certificate or permit issued pursuant to this chapter.

The civil penalty provided for in this subsection may be compromised by the commission. The amount of the penalty when finally determined or agreed upon in compromise must be deposited in the general fund and, if not paid, may be recovered in a civil action in the courts of the state.

You may contact me at [lcclark@nd.gov](mailto:lcclark@nd.gov) with any questions concerning this letter.

Best regards,

A handwritten signature in blue ink that reads "Leif Clark". The signature is written in a cursive style with a large initial "L" and a long, sweeping underline.

Leif Clark  
Grid & Rate Engineer, Public Utilities Division