

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Badger Wind, LLC
Amend-Badger Wind Project-Logan & McIntosh
Siting Application

Case No. PU-24-87

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Geralyn R. Schmaltz deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **1st day of August 2025**, she deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

- **Findings of Fact, Conclusions of Law and Order**

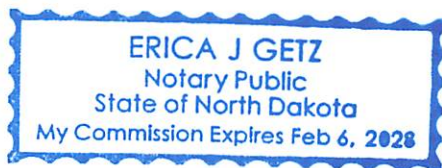
The envelope was addressed as follows:

Mollie Smith/Bridget Duffus
Fredrikson & Byron, P.A.
60 South Sixth Street, Suite 1500
Minneapolis, MN 55402-4400
Cert. No. 9589 0710 5270 2139 5699 29

Each address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me
this **1st day of August 2025**.

Notary Public



SEAL

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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Amend-Badger Wind Project- Logan & McIntosh
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Case No. PU-24-87

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

July 31, 2025

Appearances

Chair Randy Christmann, Commissioner Sheri Haugen-Hoffart, Commissioner Jill Kringstad.

Hope L. Hogan, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street, Suite 303, Bismarck, North Dakota 58503.

Brian L. Johnson, Special Assistant Attorney General, as Counsel for the North Dakota Public Service Commission, 600 E. Boulevard Avenue, Dept. 408, Bismarck, North Dakota 58505.

Mollie M. Smith and Bridget A. Duffus, Fredrikson & Byron, P.A., 60 South 6th Street, Suite 1500, Minneapolis, MN 55402 on behalf of the Applicant, Badger Wind, LLC.

Preliminary Statement

On November 20, 2022, in Case No. PU-22-86, the North Dakota Public Service Commission (Commission) issued Certificate of Site Compatibility No. 64 to Badger Wind, LLC (Badger Wind) for a wind energy conversion facility known as the Badger Wind Project, to be located in Logan and McIntosh Counties, North Dakota (Project).

On September 11, 2024, in Case No. PU-24-87, the Commission issued Amended Certificate of Site Compatibility No. 64 to Badger Wind for the Project.

On April 16, 2025, Badger Wind requested a partial waiver under North Dakota Century Code (NDCC) Section 49-22-16.4 regarding the requirement to install light-mitigating technology on nine (9) of the 92 turbines currently anticipated to be constructed on the Project.

On May 19, 2025, the Commission issued a notice of hearing, scheduling a hearing for 8:30 A.M. Central Time on July 1, 2025, in the Commission Hearing Room, 12th Floor, State Capitol, 600 East Boulevard Ave, Bismarck, ND 58505. The Notice identified the

issue to be considered with respect to the partial waiver request is whether a waiver of requirement should be granted based on technical or economic feasibility.

On June 13, 2025, the North Dakota Department of Environmental Quality filed comments.

On June 26, 2025, Badger Wind filed its proposed public hearing presentation.

On July 1, 2025, the Commission held the hearing as scheduled.

On July 2, 2025, the Commission issued a notice of hearing, scheduling a public hearing for 8:30 A.M. Central Time on July 24, 2025, in the Commission Hearing Room, 12th Floor, State Capitol, 600 East Boulevard Ave, Bismarck, ND 58505.

On July 15, 2025, Badger Wind filed information requested during the July 1, 2025, hearing and a proposed Order.

On July 22, 2025, Badger Wind filed its updated proposed public hearing presentation.

On July 24, 2025, the Commission held the public hearing as scheduled.

Findings of Fact

1. Badger Wind, LLC (Badger Wind) is a Delaware limited liability company authorized to do business in the State of North Dakota and is a wholly owned, indirect subsidiary of Ørsted Onshore North America, LLC (Ørsted).
2. In June and September 2024, the Federal Aviation Administration (FAA) approved Determinations of No Hazard (DNHs) for all 92 turbine locations and two meteorological towers within the layout of the Project. The FAA assumed standard synchronized red lights (standard lighting) for making the DNHs.
3. On January 14, 2025, Badger Wind submitted its request to the FAA for approval of an aircraft detection lighting system (ADLS), the only currently approved light-mitigating technology that fulfills the NDCC Section 49-22-16.4 requirement. The FAA denied the use of ADLS on 19 of the turbines anticipated to be constructed for the Project and required the utilization of standard lighting due to the proximity of the turbines to the Wishek Municipal Airport.
4. The FAA reduced the number of denied turbines to 9 after discussions with Badger Wind allowing 10 previously denied turbines to be constructed with ADLS after shielding effects from the 9 standard lighting turbines were taken into account.

5. Badger Wind testified that denial of the waiver is expected to result in the loss of at least 10 additional turbine locations, reducing the total number of turbines constructed from 92 to 82 and reducing the Project capacity by 28 megawatts. The loss of 19 turbines would reduce turbine payments to landowners, with 9 landowners no longer hosting any turbines, and would also reduce the amount of tax revenue generated by the Project.

6. At the hearing, a representative of Badger Wind's parent company, Ørsted Onshore North America, LLC, committed to not site any future wind turbines within 3.15 nautical miles of a public-use airport in North Dakota.

7. The Commission finds Badger Wind has established a technical infeasibility to grant a waiver from the requirement to install a light-mitigating technology system on 9 turbines based on the FAA's denial of ADLS on those turbines.

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

Conclusions of Law

Order

The Commission Orders:

1. The Commission grants a waiver from the requirement to install a light-mitigating technology system on the 9 turbines based upon current technical infeasibility, conditioned upon the continued technical infeasibility.

2. Badger Wind shall review FAA-approved light-mitigating technology systems and report the results to the Commission every three years to determine if the waiver should be continued based on continued technical infeasibility, or if an acceptable light-mitigating technology system could be approved by the FAA and installed on the 9 turbines.

PUBLIC SERVICE COMMISSION

 Sheri Haugen-Hoffart Commissioner	 Randy Christmann Chair	 Jill Kringstad Commissioner
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