



UTILITIES CO.

A Subsidiary of MDU Resources Group, Inc.

400 North Fourth Street
Bismarck, ND 58501
701-222-7900

August 2, 2024

Mr. Victor Schock
Mr. Brian Johnson
North Dakota Public Service Commission
State Capitol Building
Bismarck, ND 58505-0480

Re: Request for Jurisdictional Determination
Case No. PU-24-____

Dear Messrs. Schock and Johnson:

Montana-Dakota Utilities Co. (“Montana-Dakota”) herewith requests a jurisdictional determination regarding the applicability of Chapter 49-22 (the “Siting Act”) of the North Dakota Century Code (N.D.C.C.) to the Cedar Hills Wind facility (“Cedar Hills”) located in Bowman County, North Dakota in light of a planned maintenance project to take place at the facility.

Background

Cedar Hills is comprised of thirteen 1.5 MW GE wind turbines located on privately owned agricultural land. The facility has a combined generation capability of 19.5 MW. It received its Certificate of Public Convenience and Necessity from this Commission in March 2009 in Case No. PU-08-942 and went into commercial operation on June 6, 2010. Cedar Hills was not subject to the siting rules of this Commission at the time of construction.

Currently, Montana-Dakota is in the process of engaging contractors to conduct maintenance and repair or replacement of the turbine generators, gears boxes and blades (the “Project”). The Project benefits the facility by optimizing operations and requalify for production tax credits (PTCs) for an additional ten (10) year period.

The Project will not affect the nameplate capacity of Cedar Hills, which will remain at 19.5 MW. However, Montana-Dakota does expect to achieve greater annual energy production at the facility through increased efficiency, which will result in an increased capacity factor. These efficiencies will be achieved through enhancements to the existing blades and more efficient controls.

Work equipment will consist of three cranes, a forklift, and one skid steer. Existing access roads to the turbines will be utilized. No ground disturbance will be needed to widen or alter the access roads—only standard road maintenance will occur as

needed. Likewise, the cranes will be utilized on existing gravel pads surrounding each turbine during its operation. The cranes will assist in removing blades and drive train components located inside the nacelle. The existing blades will be inspected and refurbished to like new standards. Maintenance on the existing blades will include repairing leading edge erosion, minor cosmetic damage, and any other necessary repairs found during inspection. Once maintenance and repairs have been performed on blades, the existing blades will be reinstalled. Uptower work includes replacement of generators and gear boxes. Tower bases and masts are not part of the Project. No work will be performed on them.

Montana-Dakota currently contemplates vehicle traffic will consist of approximately 15 pickups trucks utilized by the crane crew, blade crew, and service crew. The work area for vehicles and crews will be limited to areas within approximately 150 feet of each turbine base, which includes the gravel pad area and other areas previously disturbed by the work at Cedar Hills.

Work will last approximately 14 weeks and will take place in the spring/summer of 2025.

Request for Jurisdictional Determination

The Siting Act requires utilities to obtain a certificate of site compatibility from this Commission prior to beginning construction on an electric energy conversion facility. The Siting Act was recently amended to govern the “repower” of wind facilities if certain factors are implicated. While the process of requalifying for PTCs may be commonly referred to as a repower, the Project activities proposed at Cedar Hills do not meet the definition of a “repower” as the term is defined under the Siting Act. Montana-Dakota has analyzed the Commission’s repower statute and concludes that the Siting Act is not applicable to the Project. Montana-Dakota hereby requests a determination that a certificate of site compatibility is not required under the Siting Act for Montana-Dakota to complete the Project.

Analysis

The Siting Act provides: “A wind energy conversion facility that has not been issued a certificate of site compatibility and exceeds five megawatts of electricity may not repower the wind energy conversion facility without first having obtained a certificate of site compatibility.” N.D.C.C. § 49-22-07(3). “Repower” means “construction activities to completely or partially dismantle and replace turbine equipment at an existing wind energy conversion facility site that result in an increase of the facility's generation output potential or turbine height. The term does not include routine turbine maintenance or routine replacement of malfunctioning turbines or turbine components.” N.D.C.C. § 49-22-03(11). The Project does not meet the definition of a “repower” under the Siting Act for two reasons. First, there will be no “construction” in the course of the Project. Second, the Project will not result in an increase to output potential or turbine height.

To qualify as a jurisdictional “repower”, the proposed activities must first meet the definition of “construction” under the Siting Act. “Construction” is defined as “a clearing of land, excavation or other action affecting the environment of the site”. N.D.C.C. § 49-22-03(3). A jurisdictional “repower” first requires “construction activities to completely or partially dismantle and replace turbine equipment” The activities proposed by Montana-Dakota do not meet the definition of “construction”. The Project will not involve a clearing of land, excavation, or earth disturbing activities such as excavation or topsoil stripping etc. All activities are limited to surface activities and will occur on the existing turbine gravel pads on previously disturbed areas. Transportation of equipment and replacement components will take place on existing access roads. The Project includes maintenance on existing turbine blades, and replacement of uptower components as explained above. In sum, the Project does not meet the definition of a “repower” under the Siting Act because the Project improvements do not constitute “construction” as the term is defined under N.D.C.C. § 49-22-03(3).

The Siting Act requires a repower include “an increase of the facility’s generation output potential or turbine height” in order to trigger this Commission’s siting jurisdiction. There will be no increase in potential output or change in nameplate capacity. The Project will result in an increase in Cedar Hills’ capacity factor but does not increase generation output potential. Simply stated, the efficiencies achieved will result in Cedar Hills being able to produce more energy during lower wind conditions. Likewise, the existing blades will be utilized, and the Project will not result in an increase in turbine height. Thus, for these reasons, the Project does not require siting.

Based on this analysis, Montana-Dakota respectfully requests a jurisdictional determination that the Siting Act does not apply to the Project taking place at Cedar Hills. Please contact me at 701.222.7855 or travis.jacobson@mdu.com if you have questions or need additional information to make a determination regarding this wind facility project.

Sincerely,

/s/ Travis R. Jacobson

Travis R. Jacobson
Director of Regulatory Affairs

cc: Allison Waldon
Darrin Holzer
John Schuh