

December 15, 2025

**VIA E-MAIL FOR ELECTRONIC FILING**

Steven M. Kahl, Executive Director  
North Dakota Public Service Commission  
State Capitol Building, Dept. 408  
600 East Boulevard  
Bismarck, ND 58505-0480

Re: **Application for Temporary Authority**  
**Case No. PU-25-\_\_\_\_\_**

Dear Mr. Kahl:

Montana-Dakota Utilities Co. (Montana-Dakota), respectfully submits this Application to the North Dakota Public Service Commission for temporary authority to own and operate an undivided forty-nine percent portion of the 250 MW Badger Wind Project. Montana-Dakota is making this request to provide for the ability for it to close the purchase of its share of the Badger Wind Project while the currently pending request in Case No. PU-25-278 to transfer a forty nine percent interest in Certificate of Site Compatibility No. 64 for the Project continues to be in the notice and opportunity for hearing phase, which is expected to last beyond the currently contemplated end of 2025 commercial operation date of the facility. Montana-Dakota makes this request pursuant to N.D.C.C. 49-22-25. In the alternative, Montana-Dakota respectfully requests that the Commission approve the forty-nine percent transfer of Certificate of Site Compatibility No. 64 conditioned on the notice and opportunity period in Case No. PU-25-278 having run and no interested parties requesting a hearing.

**I. Background**

The Badger Wind Project is a 250 MW wind facility in Logan and McIntosh Counties currently being constructed by Badger Wind, LLC, a wholly owned subsidiary of Orsted Onshore North America, LLC (Orsted). The Commission issued Certificate of Site Compatibility No. 64 for the

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Project on November 30, 2022, in Case No. PU-22-86. The Certificate was amended on September 11, 2024, in Case No. PU-24-87.

On February 13, 2025, Montana-Dakota entered into a purchase agreement to purchase an undivided forty-nine percent interest in the Project. The Commission issued an Advanced Determination of Prudence for Montana-Dakota's ownership of the Project on September 24, 2025 in Case No. PU-25-75 (the ADP Case). On that same day, the Commission issued to Montana-Dakota a Certificate of Public Convenience and Necessity for its ownership of the Project in Case No. PU-25-76.

On October 29, 2025, Badger Wind, LLC and Montana-Dakota filed a joint Application for the partial transfer of Certificate of Site Compatibility No. 64 in Case No. PU-25-278 (the Certificate Transfer Case). The Commission issued a Notice and Opportunity for Hearing in that Case on November 19, 2025. The Notice period expires on January 2, 2025.

The Project is currently under construction and expected to be in commercial operation by the end of 2025. Montana-Dakota had been contemplating the closing of the purchase transaction to occur upon the commercial operation date of the facility. Unfortunately, the Application to transfer the Certificate of Site Compatibility was filed too late to allow for the Certificate to be partially transferred prior to the end of 2025.

## **II. Requested Relief**

Pursuant to N.D.C.C. § 49-22-25, the Commission is empowered to allow for the temporary operation of a facility upon good cause shown and a certification by the utility that the operation will have no adverse impacts to the citizens of North Dakota or the environment. Section 49-22-25 further empowers the Commission to exercise this authority without notice, publication, or public hearing. Lastly, the statutes provides that the Commission may impose such conditions as it deems necessary.

Montana-Dakota submits that good cause exists for the Commission to issue it temporary authority to own and operate the Badger Wind Facility during the pendency of the Certificate Transfer Case. Specifically, the findings in the ADP Case determined that Montana-Dakota's ownership of the Badger Wind Project is superior to its purchase of the output of the project from an economic perspective and provides superior benefits of to its rate payers. Being able to close the transaction upon commercial operation as opposed to days or weeks later helps to ensure that Montana-Dakota's North Dakota customers may obtain the full benefits of ownership, including all of the Production Tax Credits that will accrue to Montana-Dakota through its ownership of the Project. Logistically, it will be much simpler for Montana-Dakota to close upon commercial operation rather than to take the output of the project for some short period of time under a PPA and then close the transaction. Overall, Montana-Dakota believes

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that the temporary authority sought in this Application will enable it to more orderly close the transaction while it is waiting for the notice period to run under the Certificate Transfer Case.

Montana-Dakota certifies that the relief requested will not impact North Dakota citizens or the environment. Specifically, the Commission has already issued Certificate of Site Compatibility No. 64 and Badger Wind, LLC and Montana-Dakota are both required to adhere to its provisions. Consequently, no additional impact to the citizens of North Dakota nor the environment will exist.

Montana-Dakota further submits that the Commission should condition any approval of its request on the successful partial transfer of Certificate of Site Compatibility No. 64. In the event that the Commission does not ultimately approve the partial transfer in the Certificate Transfer Case, Montana-Dakota's authority to own and operate the facility would then terminate within a reasonable period of time.

Montana-Dakota recognizes that the instant request is unusual. We apologize that the Application for partial transfer of Certificate of Site Compatibility No. 64 was not filed with sufficient time to ensure a closing prior to year's end. Montana-Dakota appreciates the Commission's attention to this matter to help ensure that the full benefits of this project can be obtained. With that said, Montana-Dakota believes that in lieu of the relief requested in this Application, the Commission could alternatively approve the partial transfer of Certificate of Site Compatibility No. 64, conditioned on the running of the notice period through January 2 and no entity seeking a hearing on the matter. This would allow for Certificate of Site Compatibility No. 64 to transfer at closing while conditioning the transfer to account for the remaining comment period.

### **III. Required Information**

Montana-Dakota is a Delaware corporation authorized to do business in North Dakota. Its principal place of business is 400 North 4<sup>th</sup> Street, ND 58501. Montana-Dakota's corporate papers were filed in the Certificate Transfer Case and are hereby incorporated by reference.

### **IV. Conclusion**

Montana-Dakota respectfully request that the Commission temporarily authorizes its ownership and operation of a forty nine percent undivided ownership share in the Badger Wind Facility during the pendency of the Certificate Transfer Case. Good cause has been shown that such relief should be granted; that there will be no adverse impacts to the citizens of North Dakota or the environment; and that the Commission can and should impose appropriate conditions on such authority. In the alternative, the Commission may consider authorizing the partial transfer of Certificate of Site Compatibility No. 64 conditioned on the notice period having run and no parties requesting a hearing.

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Please contact me at (612) 492-6129 or [simpser.zev@dorsey.com](mailto:simpser.zev@dorsey.com) if you have any questions regarding this filing.

Very truly yours,

DORSEY & WHITNEY LLP



Zev Simpser

*Attorney for Montana-Dakota Utilities*