STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

Courtenay Wind Farm, LLC **Case No. PU-13-64**
200.5 MW Wind Energy Conversion Facility- Stutsman County
Siting Application

AFFIDAVIT OF SERVICE REGULAR OR ELECTRONIC MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Jennifer Lein deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **15th** day of **November, 2013**, she deposited in the United States Mail, Bismarck, North Dakota, 3 envelopes by first class mail, fully prepaid, all securely sealed and each containing a photocopy, and 23 addressees electronically mailed a copy of:

Findings of Fact, Conclusions of Law and Order

The envelopes and electronic mails respectively were addressed as follows:

See attached list.

Each post office address shown is the respective addressee's last reasonably ascertainable post office address and each email address is the respective addressee's last reasonably ascertainable electronic mailing address.

Jennifer Lein

Subscribed and sworn to before me
this **15th** day of **November, 2013.**

Geralyn R. Schmaltz
Notary Public

SEAL

GERALYN R. SCHMALTZ
Notary Public
State of North Dakota
My Commission Expires Oct. 5, 2016

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

Courtenay Wind Farm, LLC
200.5 MW Wind Energy Center – Stutsman County
Siting Application

Case No. PU-13-64

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

November 13, 2013

Appearances

Commissioners Brian P. Kalk, Julie Fedorchak, Randy Christmann.

Mollie M. Smith, Fredrikson & Byron, P.A., 200 North 3rd Street, Suite 150, Bismarck, North Dakota 58501-3879, on behalf of the Applicant, Courtenay Wind Farm, LLC.

Mitchell D. Armstrong, Special Assistant Attorney General, Legal Counsel for the North Dakota Public Service Commission.

Bonnie Fetch, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street – Suite 303, Bismarck, ND 58503, as Procedural Hearing Officer.

Preliminary Statement

On February 1, 2013, Courtenay Wind Farm, LLC (Courtenay) filed a Letter of Intent (LOI) to submit an application for a Certificate of Site Compatibility to develop a wind energy conversion facility, referred to by Courtenay as the Courtenay Wind Farm (Project), in Stutsman County, North Dakota. In its LOI, Courtenay requested a shortening of the prescribed one-year notice period between when the LOI is filed and when the application for a Certificate of Site Compatibility is filed.

On February 13, 2013, the Commission acknowledged the LOI, shortened the one-year notice period to thirty days, and assessed a filing fee of $85,000 due upon the filing of the application.

On April 12, 2013, Courtenay filed its Application for Certificate of Site Compatibility for the Courtenay Wind Farm in Stutsman County, North Dakota, Case No. PU-13-64 (Application), requesting authority to construct an up to 200.5 MW gross wind energy conversion facility.

On May 22, 2013, the Commission deemed the Application complete and issued a Notice of Filing and Notice of Hearing, scheduling a public hearing for July 12, 2013 at 10:00 a.m. at the Stutsman County Court House Law Enforcement Center, 205 6th St. SE, Jamestown, North Dakota. The notice identified the following issues to be considered:

> 1. Will the location, construction, 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 July 3, 2013, Courtenay filed a number of proposed hearing exhibits, including a map of the final Project layout and a map of the turbine setbacks from residences.

On July 12, 2013, the public hearing was held as scheduled.

On July 22 and 24, 2013, four letters were filed with the Commission: (1) a letter from Kyle C. Wanner, North Dakota Aeronautics Commission (NDAC), dated July 23, 2013 (NDAC letter); (2) a letter from Robert and Julie Sprague, dated July 18, 2013 (Sprague letter); (3) a letter from James and Sharon Hastings, dated July 18, 2013 (Hastings letter), which was submitted with the Sprague letter; and (4) a letter from Grant Baumgartner, dated July 22, 2013 (Baumgartner letter).

On August 5, 2013, the Commission notified Courtenay of the post-hearing submissions.

On August 13, 2013, Courtenay filed a letter with the Commission opposing consideration of the post-hearing submissions.

On August 21, 2013, the Commission issued a Notice of Intent to Consider Additional Information Not Presented At a Hearing, indicating that the Commission intended to consider the NDAC letter, the Sprague letter, the Hastings letter and the Baumgartner letter (Notice Information).

On August 29, 2013, Courtenay filed with the Commission a written request to examine and present its own information and evidence in response to the Notice Information.

On October 25, 2013, Courtenay filed with the Commission responses to the Notice Information (Response to Notice Information).

On October 25, 2013, Courtenay filed with the Commission late-filed Exhibit 15 (Updated Technical Memorandum – Cultural Resources Investigation), late-filed Exhibit 16 (Updated Technical Memorandum – Class II Architectural History Investigation, with SHPO concurrence letter), late-filed Exhibit 17 (Wetlands and Waters Survey Report, with accompanying Project layout maps and information), late-filed Exhibit 18 (Update Regarding Correspondence with the United States Fish and Wildlife Service (USFWS), Migratory Bird Office), and late-filed Exhibit 19 (Information Regarding Participating and Non-Participating Landowners in Project Area).

On November 4, 2013, Courtenay filed with the Commission a copy of the SHPO's concurrence letter regarding Courtenay's cultural resource inventory report.

On November 5, 2013, Courtenay filed a letter with the Commission withdrawing its request to permit Turbine Nos. 1, 2, 3, 10, 11, 12, 13, 21, and 22, and permanent Met Tower B. Courtenay also provided a map depicting the revised final Project layout.

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. Courtenay is a North Dakota limited liability company with its principal office in Bismarck, North Dakota.

2. Courtenay has been authorized to do business in the State of North Dakota since April 1, 2009, as evidenced by the Certificate of Good Standing issued by the North Dakota Secretary of State on August 22, 2012. *See* Case No. PU-13-065.

3. Courtenay proposes to construct and operate a wind energy conversion facility known as the Courtenay Wind Farm to be located within an area comprised of approximately 21,000 acres of privately-owned land in Stutsman County, North Dakota, north of Jamestown and southwest of the city of Courtenay.

4. Courtenay selected the proposed site for the Project based on a number of factors, including: the excellent wind resource, landowner interest and support, suitable transmission interconnection capability, avoidance of environmental issues, compliance with the Commission's siting criteria, compliance with Stutsman County's setback

requirements, construction and other site-specific limitations, and economic considerations.

5. Section 49-22-16(4) of the North Dakota Century Code provides that a site shall not be designated that violates the rules of any state agency, and 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 the public hearing. The federal, state and local departments, agencies and entities which were consulted and provided comment are as follows:

a. Federal – Federal Aviation Administration (FAA); United States Army Corps of Engineers Omaha District, North Dakota Regulatory Office (USACE); USFWS, North Dakota Field Office; USFWS, Migratory Bird Office; United States Air Force, Minot Air Force Base; United States Department of Defense (DOD); National Telecommunications and Information Administration;

b. State – SHPO; North Dakota Parks and Recreation Department; North Dakota Game and Fish Department; North Dakota Department of Health; NDAC;

c. Local – Stutsman County; Courtenay Township; Durham Township.

6. Agency consultations and comments are noted in Appendices G and H of the Application, in the exhibits and the testimony presented at the public hearing, in the Notice Information, and in Courtenay's Response to the Notice Information. In the NDAC letter, the NDAC noted potential safety concerns regarding a private runway owned by the Spragues. The NDAC letter is discussed further in Paragraph 45 of these Findings of Fact. No other objections to the proposed Project were raised by any state or federal agencies or any local governmental entities.

7. Section 49-22-16(2) of the North Dakota Century Code provides that no energy conversion facility site shall be designated that violates any local land use, zoning or building rules, regulations or ordinances. At the hearing, Courtenay testified that it will obtain a conditional use permit for the Project from Stutsman County and Ashland Township, and will comply with county and township zoning ordinance requirements for wind energy conversion facilities.

Project Design

8. The Project will have a nameplate (gross) capacity of approximately 200.5 MW, with a projected average annual output of up to 825,546 megawatt hours (MWh) per year, assuming net capacity factors of between 43 and 47 percent.

9. The final Project layout proposed by Courtenay consists of 127 potential turbine locations, which includes two alternate sites, as well as two permanent meteorological tower locations.

10. Courtenay is considering the following four turbine models, or a turbine model similar to these turbine models: the Goldwind GW-87; GE 1.6-87; Vestas V100; and Gamesa G97. The turbine selected will be between 1.5 and 2.0 MW in size, and will have a hub height of between 78 and 85 meters and a rotor diameter of up to 100 meters.

11. The turbines will have a Supervisory Control and Data Acquisition (SCADA) system, which will allow for local and remote control monitoring of all turbines, and will have lightning protection in accordance with the manufacturer's specifications. The type of foundation that will be used for the turbines will be dependent upon soil conditions at the site. Courtenay will develop a lighting and marking plan for the turbines and meteorological towers in accordance with FAA requirements.

12. In addition to turbines, associated facilities that would be constructed within the Project Area include: access roads, a Project collector substation, an operations and maintenance (O&M) building, permanent meteorological towers, pad-mounted transformers, and a system of underground electrical collection lines and communication cables.

13. Courtenay will construct and operate the Project in compliance with the National Electric Safety Code.

14. Construction of the proposed Project may begin as soon as the fourth quarter of 2013 and is anticipated to be completed by the fourth quarter of 2014. Courtenay anticipates that the Project will be operational in the fourth quarter of 2014.

15. In accordance with the Commission's rules, Courtenay will file a decommissioning plan with the Commission prior to the Project commencing operations, and decommissioning will be performed in accordance with all applicable rules and regulations.

16. The total cost for construction of Courtenay's proposed Project is estimated to be approximately $350 million.

Siting Criteria

17. North Dakota Administrative Code Chapter 69-06-08 sets forth certain criteria to guide the Commission in evaluating the suitability of granting an application for a certificate of site compatibility. The criteria, as set forth in North Dakota Administrative Code Section 69-06-08-01 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria and Policy Criteria. With the exception of prime farmland and unique farmland, an energy conversion facility shall not be sited within an Exclusion Area. The

exception for prime and unique farmland is if the Commission finds the prime farmland and unique farmland that will be removed from use for the life of the facility is of such small acreage as to be of negligible impact on agricultural production, then such exclusion shall not apply. An energy conversion facility must not be sited within an Avoidance Area unless the applicant shows that under the circumstances there is no reasonable alternative. In determining whether an Avoidance Area should be designated for a 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 sites. In accordance with the Commission's Section Criteria, a site shall be approved if it is demonstrated that any significant adverse effects resulting from the location, construction, and operation of the energy conversion facility will be at an acceptable minimum or that the effects will be managed and maintained at an acceptable minimum. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits of the proposed energy conversion facility.

18. With respect to general Exclusion Areas, prime farmland and farmland of statewide importance are present within the Project Area. However, prime farmland and farmland of statewide importance have been avoided to the maximum extent practicable and less than one percent of the prime farmland and farmland of statewide importance within the Project Area are expected to be permanently impacted. The Commission finds the prime farmland and unique farmland that will be removed from use for the life of the facility is of such small acreage as to be of negligible impact on agricultural production. The proposed Project will have a negligible impact on agricultural productions.

19. With respect to Exclusion Areas specific to wind energy conversion facilities, areas less than one and one-tenth times the height of the turbine plus seventy-five feet from the centerline of county or maintained township roadway, areas less than one and one-tenth times the height of the turbine from any railroad right of way, and areas less than one and one-tenth times the height of the turbine from the property line of a nonparticipating landowner are present within the Project Area. However, all Project turbines have been sited outside of these areas.

20. With respect to general Avoidance Areas, (1) cultural resources are present within the Project Area, but there will be no direct impacts to such resources; (2) a small portion of the undeveloped land of the city of Courtenay is located within the Project Area, but no Project facilities will be located within the city limits; (3) some trees and shrubs are present, and Courtenay will comply with the Commission's tree and shrub mitigation specifications with respect to any tree or shrub removal; (4) wetlands are present within the Project Area, but impacts have been minimized to the extent practicable.

21. No further Exclusion or Avoidance Areas have been identified within the Project Area.

22. The proposed Project and its associated facilities will occupy and disturb up to approximately 50 acres of land, or approximately 0.2 percent of the total Project Area, during the life of the Project. Courtenay will continue to work closely with landowners during the development phase of the Project to minimize land use disruptions from the siting of the facilities. No impacts to irrigation or the quality of the agricultural land are anticipated.

23. Courtenay submitted evidence to demonstrate that any significant adverse effects resulting from the location, construction, and operation of the Project as they relate to the Selection Criteria set forth in Section 69-06-08-01(5) of the North Dakota Administrative Code will be at an acceptable minimum or managed and maintained at an acceptable minimum.

24. Courtenay submitted evidence to demonstrate its commitment to maximize the benefits of the proposed energy conversion facility as far as is possible to meet the Policy Criteria set forth in Section 69-06-08-01(6) of the North Dakota Administrative Code.

25. During construction, the Project will likely result in a temporary increase in traffic on local county and township roads; however, based on the existing traffic use and the rural nature of the area, the impacts from the additional construction-related traffic are expected to be minimal. Any impacts on county roads and their restoration will be addressed in accordance with the road use and maintenance agreements between the county/townships and Courtenay. During operation, no adverse effects to transportation facilities or networks are anticipated.

Cultural Resources

26. Courtenay conducted a Class I literature search, a Class II architectural history investigation, and a Class III cultural resource investigation for the Project Area.

27. With respect to architectural properties, Courtenay identified three properties that are eligible for listing on the National Register of Historic Places (NRHP). By letter dated August 22, 2013, the SHPO concurred that, although eligible for listing on the NRHP, the Project will not adversely affect the three properties.

28. With respect to the cultural resource investigation, ten cultural resource sites and four site leads were identified within the surveyed areas. Courtenay's environmental consultant recommended avoidance of two of the sites and, by letter dated October 25, 2013, the SHPO concurred with that recommendation. Courtenay relocated two portions of the collector line system to other surveyed areas to avoid the cultural resource sites. Thus, no cultural resources will be impacted by the Project.

Wetlands, Woodlands, and Wildlife

29. The woodlands present in the Project Area generally consist of shelterbelts and windbreaks. If trees or shrubs are impacted by the Project, Courtenay will comply with the Commission's tree and shrub mitigation specifications.

30. A wetland delineation was conducted for the Project and the results were provided in the Wetlands and Waters Survey Report. The Project layout has avoided wetlands to the extent practicable. Courtenay will obtain any permits required from the USACE.

31. Courtenay coordinated with the USWFS with respect to the location of Project facilities on USFWS wetland easements. The Project has avoided permanent impacts to all wetland basins subject to USFWS wetland easements. In order to do so, Courtenay had to adjust the location of certain access roads and collector lines (*see* Exhibit B to late-filed Exhibit 17). All new access road and collector line locations are within the Project's wetland and cultural resource survey corridors, and are addressed in late-filed Exhibits 15 and 17. Courtenay will obtain a Special Use Permit from the USFWS for any temporary impacts to wetland basins subject to USFWS wetland easements.

32. Courtenay conducted environmental studies of the Project Area, including a Whooping Crane Likelihood of Occurrence Survey, a 2012 Fall Avian and Crane Survey, and a 2013 Spring Avian Survey. No adverse impacts to federally-listed threatened or endangered species are anticipated. An eagle nest was identified within the Project Area, and Courtenay is coordinating with USFWS on next steps concerning the nest. Courtenay will prepare a Bird and Bat Conservation Strategies, which will address avian and bat-related mitigation measures.

Sound and Shadow Flicker Analyses

33. An acoustic modeling analysis was performed for the Project. The analysis indicates that sound levels for the Project will comply with the Commission's Avoidance Area requirement that sound levels within 100 feet of an inhabited residence or community building not exceed 50 dBA.

34. A shadow flicker analysis was conducted for the Project. The analysis shows no occupied residences are anticipated to have shadow flicker levels of over 30 hours a year. In the event that flicker mitigation is necessary, Courtenay will work with individual landowners to address issues, and the mitigation measures employed may include adding vegetative screening or installing curtains or blinds on the windows facing the turbine casting shadows.

Additional Mitigative Measures

35. In addition to mitigative measures previously noted, Courtenay has agreed to a number of steps to mitigate any potential Project impacts, as indicated by the Certification Relating to Order Provisions – Transmission Facility Siting, with accompanying Tree and Shrub Mitigation Specifications, dated July 3, 2013, which is attached hereto.

36. The closest wind turbine location to any occupied residence is approximately 1,682 feet, measured from the center of the base of the turbine tower to the closest part of the residence.

37. Stutsman County Wind Turbine Zoning regulations require each wind turbine must be set back at least five rotor diameters from any occupied structure. For a 100-meter rotor diameter this setback equates to 1,641 feet. The Project will comply with Stutsman County zoning regulations.

38. Courtenay will utilize best management practices (BMPs) to minimize impacts on ground and surface water, and to prevent soil erosion. Courtenay will implement the erosion control measures required under the National Pollution Discharge Elimination System (NPDES) permit and the associated Stormwater Pollution Prevention Plan. Construction of the Project is not anticipated to have a significant adverse impact on surface or ground water resources or soils.

39. All electrical equipment associated with the turbines, with the exception of pad-mounted transformers, will be contained within the solid steel enclosed tubular towers on which the turbines are mounted. Access to the towers will be restricted to a single solid steel door that will be locked when not in use. The Project substation will be fenced and locked, and will have applicable warning signs.

40. Courtenay will participate in the North Dakota One-Call Excavation Notice System.

41. Courtenay will coordinate with local authorities and first responders regarding emergency response measures as part of the Project commissioning activities.

Other Issues

42. During the public hearing, Rod Roaldson testified regarding his concerns with respect to proposed Turbine Nos. 119 and 128, to be located near his residence in the NW/4 of Section 11, Township 143 North, Range 63 West, Stutsman County, North Dakota. After the hearing, Courtenay analyzed Project data and concluded that Turbine Nos. 119 and 128 could be designated as alternative turbine locations. Based on a joint letter submitted by Roaldsons and Courtenay, designation of Turbine Nos. 119 and 128 as alternate turbine locations addresses the Roaldsons' concerns (*see* Exhibit A to late-filed Exhibit 19).

43. In the Baumgartner letter, Grant Baumgartner noted concerns regarding the location of the Project substation and the density of wind turbines within one mile of a residence owned by Mr. Baumgartner. As a result of discussions between Courtenay and Mr. Baumgartner, Courtenay agreed to implement the following measures: (1) minimize the Project substation footprint to the extent commercially reasonable; (2) place the Project substation as far north on the substation parcel as is commercially reasonable; and (3) plant trees between the proposed Project substation location and Mr. Baumgartner's residence so as to screen the Project substation from Mr. Baumgartner's view. Based on a joint letter submitted by Mr. Baumgartner and Courtenay (*see* Exhibit A to Courtenay's Response to Notice Information and Exhibit B to late-filed Exhibit 19), these measures reasonably address Mr. Baumgartner's concerns, and the Commission will make compliance with these measures a condition of the Order.

44. In the Hastings letter, the Hastings noted various concerns, including concerns regarding noise, flashing lights, and lost property value. In response to the Hastings letter, Courtenay provided the following information and evidence:

a. The Hastings executed a lease agreement with Courtenay for the Project and will be compensated for any Project impacts pursuant to that agreement. Courtenay showed a map of the proposed Project layout to the Hastings before the Hastings executed the lease agreement.

b. No Project facilities will be located on the Hastings property.

c. The closest proposed turbine location is approximately 1821 feet away from the Hastings' residence.

d. Sound levels at the Hastings' home will comply with the Commission's avoidance area requirements and Stutsman County zoning requirements.

e. Based on shadow flicker modeling, shadow flicker will be far below the 30 hour per year goal established by Courtenay and utilized in past North Dakota wind energy conversion siting cases.

See Courtenay's Response to Notice Information. Based on the evidence presented, the Commission finds that the concerns noted in the Hastings letter have been adequately addressed or are not supported by the evidence.

45. In the NDAC letter, the NDAC noted potential safety concerns regarding the proximity of Turbine Nos. 1, 2, 3, 10, 11, 12, 13, 21, and 22, and permanent Met Tower B, to an airstrip owned by Robert Sprague utilized for an agricultural spraying operation. In the Sprague letter, the Spragues noted a number of concerns, including potential safety concerns regarding the proximity of Turbine Nos. 1, 2, 3, 10, 11, 12, 13, 21, and 22, and permanent Met Tower B, to their private runway. By letter dated November 5, 2013, Courtenay withdrew its request for the Commission to permit Turbine Nos. 1, 2, 3,

10, 11, 12, 13, 21, and 22, and permanent Met Tower B. As such, the issues raised in the NDAC letter and the Sprague letter are moot.

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

Conclusions of Law

1. The Commission has jurisdiction over this proceeding under North Dakota Century Code Chapter 49-22.

2. The wind energy conversion facility proposed by Courtenay is an energy conversion facility as defined in North Dakota Century Code Section 49-22-03(5).

3. The Application submitted by Courtenay meets the site evaluation criteria required by North Dakota Century Code Chapter 49-22.

4. The location, construction, and operation of the proposed energy conversion facility will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.

5. The proposed energy conversion facility is compatible with the environmental preservation and the efficient use of resources.

6. The proposed energy conversion facility location 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.

7. The Commission has jurisdiction to ensure compliance with National Electric Safety Code standards in the construction and operation of the proposed energy conversion facility.

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

Order

The Commission orders:

1. Certificate of Site Compatibility No. 36 is issued to Courtenay Wind Farm, LLC, for the construction, operation and maintenance of a wind energy facility known as the Courtenay Wind Farm.

2. The site, as described in the Application and presented at the hearing, located north of Jamestown and southwest of the city of Courtenay, North Dakota, is designated as the site for construction of the Courtenay Wind Farm, and is as follows:

Township 142 North, Range 62 West, Stutsman County, ND

Sections 4-8, 17

Township 142 North, Range 63 West, Stutsman County, ND

Sections 1-4, 11-12, 14

Township 143 North, Range 62 West, Stutsman County, ND

Sections 6-8, 17-21, 28-33

Township 143 North, Range 63 West, Stutsman County, ND

Sections 1-3, 9-15, 22-26, 35-36

Township 144 North, Range 63 West, Stutsman County, ND

Sections 26-27, 34-36

3. Within the permitted area, Courtenay is authorized to site and construct up to 200.5 MW of wind turbines, electrical collection and communication lines, access roads, an operation and maintenance building, a Project substation, meteorological towers, and other associated facilities identified in the Application, at the hearing, in any supplemental filings and in any late-filed exhibits. The approved Project layout, which excludes Turbine Nos. 1, 2, 3, 10, 11, 12, 13, 21, and 22, and permanent Met Tower B, is identified in the map Courtenay filed with the Commission on November 5, 2013.

4. Prior to construction, Courtenay shall file a final turbine layout with the turbine model identified and approved turbine locations that it intends to use labeled.

5. Courtenay shall implement the following agreed-upon mitigation measures: (1) minimize the Project substation footprint to the extent commercially reasonable; (2) place the Project substation as far north on the substation parcel as is commercially reasonable; and (3) plant trees between the proposed Project substation location and Grant Baumgartner's residence so as to screen the Project substation from Mr. Baumgartner's view.

6. Turbine Nos. 119 and 128 are designated as alternative turbine locations.

7. The July 3, 2013 Certification Relating to Order Provisions – Transmission Facility Siting are incorporated by reference and attached to this Order.

PUBLIC SERVICE COMMISSION

Randy Christmann **Commissioner**	**Brian P. Kalk** **Chairman**	**Julie Fedorchak** **Commissioner**

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

Certificate of Site Compatibility Number 36

This is to certify that the Commission has designated an energy conversion facility site for Courtenay Wind Farm, LLC, for its Courtenay Wind Farm consisting of up to 127 Wind Turbines and associated facilities totaling up to 200.5 MW of generating capacity in Stutsman County, North Dakota.

The facility may be sited in this designated location in compliance with the energy conversion facility siting criteria. This certificate is issued in accordance with the Finding of Fact, Conclusion of Law and Order of the Commission in Case No. PU-13-64 dated November 13, 2013 and is subject to the conditions and limitations noted in the order.

Bismarck, North Dakota, November 13, 2013.

ATTEST: ***PUBLIC SERVICE COMMISSION***

Executive Secretary ***Commissioner***

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

Courtenay Wind Farm, LLC
200.5 MW Wind Energy Center – Stutsman County
Siting Application

Case No. PU-13-64

CERTIFICATION RELATING TO ORDER PROVISIONS
ENERGY CONVERSION FACILITY SITING

I am Elizabeth M. Engelking, a representative of Courtenay Wind Farm, LLC ("Company") with authority to bind it to requirements to be set forth by the Commission in its Order and I certify the following:

1. Company understands and agrees that the Certificate of Site Compatibility will be issued by the Commission subject to the conditions and criteria set forth in Chapter 49-22 of the North Dakota Century Code and Chapter 69-06-08 of the North Dakota Administrative Code, and that Company shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.

2. Company agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Company representative, its construction supervisor, and a representative of Commission Staff, to ensure that Company fully understands the conditions set forth in the Commission's order.

3. Company agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the proposed energy conversion facility including all city, township, and county zoning regulations.

4. Company understands and agrees that it shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction activity associated with the energy conversion facility that requires said license or permit.

5. Company agrees to inform the Commission and the Commission's third-party construction inspector of its intent to start construction on the energy conversion facility prior to the commencement of construction. Once construction has started, Company shall keep the Commission and the Commission's third-party construction inspector updated of construction activities on a weekly basis.

6. Company understands and agrees that the Certificate of Site Compatibility is subject to suspension or revocation and may, in an appropriate and proper case, be suspended or revoked for failure to comply with the Commission's order, the conditions and criteria of the certificate or subsequent modification, or failure to

comply with the applicable statutes, rules, regulations, standards, and permits of other state or federal agencies.

7. Company agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order and the Certificate of Site Compatibility, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.

8. Company agrees to construct and operate the energy conversion facility in accordance with all applicable safety requirements.

9. Company agrees to construct and operate the energy conversion facility in the manner described in Company's application, in any late filed exhibits, and supplemental materials, (Application). To the extent there are any conflicts or inconsistencies between Company's Application and the provisions in this Certification Relating to Order Provisions, the Certification provisions control.

10. Company agrees to report promptly to the Commission the presence in or near the approved site of any critical habitat of threatened species, endangered species, bald eagles, or golden eagles that Company becomes aware of and which were not previously reported to the Commission.

11. Company understands and agrees that all cultural resource mitigation plans must be submitted to the North Dakota State Historic Preservation Office and approved prior to the start of any fieldwork and construction activity in the affected area.

12. Company understands and agrees that if any cultural resource, paleontological site, archeological site, historical site, or grave site is discovered during construction, it must be marked, preserved and protected from further disturbances until a professional examination can be made by the State Historical Society, a report of such examination is filed with the Commission, and clearance to proceed is given by the Commission.

13. Company understands and agrees that all buried facility crossings of graded roads shall be bored unless the responsible governing agency specifically permits Company to open cut the road.

14. Company understands and agrees that all pre-existing township and county roads and lanes used during construction must be repaired or restored to a condition that is equal to or better than the condition prior to the construction of the energy conversion facility and that will accommodate their previous use, and that areas used as temporary roads or working areas during construction must be restored to their original condition.

15. Company understands and agrees that construction must be suspended when weather conditions are such that construction activities will cause irreparable damage to roads or land, unless adequate protection measures approved by the Commission are taken.

16. Company understands and agrees that where available, at least 12 inches of topsoil over and along trench areas, roadways, tower locations, and locations of associated facilities shall be stripped and shall be segregated from the subsoil and be replaced only after the subsoil is replaced. Any area on which excavated subsoil will be placed must first be stripped of topsoil. After backfilling with subsoil is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography.

17. Company understands and agrees that it shall bury all underground collection and feeder lines to a depth of at least 48 inches to the top of the lines.

18. Company understands and agrees that reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.

19. Company understands and agrees that its obligation for reclamation and maintenance of the approved site will continue throughout the life of the energy conversion facility.

20. Company is aware that North Dakota law requires that all companies that own or operate electric generation of any size for the primary purpose of resale must comply with the standards of the National Electrical Safety Code in effect at the time of construction of the generation facility, and agrees to comply with that requirement.

21. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.

22. Company understands and agrees that it shall repair or replace all fences and gates removed or damaged during all phases of construction and operation of the proposed energy conversion facility.

23. Company understands and agrees that it shall repair or replace all drainage tile broken or damaged as a result of construction and operation of the proposed energy conversion facility.

24. Company understands and agrees that it shall work with landowners and residents to mitigate any increase in television and residential radio interference that results from the construction of the energy conversion facility.

25. Company understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Company unless otherwise negotiated with landowners.

26. Company understands and agrees that it shall remove all waste that is a product of construction and operation, restoration, and maintenance of the site, and properly dispose of it on a regular basis.

27. Company agrees that it shall, as soon as practicable upon the completion of the construction of each wind turbine, restore the area affected by the activities to as near as is practicable to the condition as it existed prior to the beginning of construction.

28. Company agrees that it shall provide, if requested, educational material for landowners within the site boundaries about the proposed energy conversion facility and any restriction or danger concerning the proposed energy conversion facility.

29. Company understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the energy conversion facility.

30. Company understands and agrees that it shall advise the Commission of any extraordinary events which take place at the site of the energy conversion facility, including injuries to any person, the death of any threatened or endangered species, a tower collapse, or a catastrophic turbine failure, within five business days of such event.

31. Company understands and agrees that it shall advise the Commission of the discovery of a large number of dead birds or bats on the site within five business days of such event.

32. Company understands and agrees that it shall implement a procedure for how complaints concerning the proposed energy conversion facility will be handled by Company

33. Company agrees to provide the Commission with engineering design drawings showing surveyed structure and collection substation locations prior to construction.

34. Company understands and agrees that it shall inform the Commission in writing of any plans to modify the energy conversion facility, or of any plans to modify the site plan for the energy conversation facility. Company understands and agrees to obtain written approval from the Commission prior to any modifications to the site plan or the energy conversion facility, associated facilities, and roadway locations. Approval may be granted after notice and opportunity for hearing.

35. Company agrees to provide the Commission with both an electronic and a paper copy of the site approved by the Commission and the facility design specifications for the construction of the energy conversation facility showing the location of the energy conversion facility as built, and will provide this information within 3 months of the completion of the construction. Company also agrees to provide an electronic version of the site approved by the Commission and the facility design specifications for the construction of the energy conversation facility showing the location of the energy conversion facility as built that can be imported into ESRI GIS mapping software within 3 months of the completion of the construction. This electronic map data must be referenced to the North Dakota coordinate system of 1983, North and/or South zones US Survey feet (NAD 83) UTM Zone 13N or 14N feet (NAD 83), or geographic coordinate system (WGS 84) feet. The vertical data must be in the appropriate vertical datum for the coordinate system used. All submissions must specify the datum in which the data was developed.

36. Company is aware that under North Dakota Century Code section 49-02-27 the Commission has rules for decommissioning of wind energy conversion facilities. Company agrees to comply with all decommissioning rules adopted by the Commission.

37. Company understands and agrees that the authorizations granted by the Certificate of Site Compatibility for the energy conversion facility are subject to modification by order of the Commission if deemed necessary to protect further the public or the environment.

38. Company understands and agrees that in the event Company desires to construct, within any site granted by a Certificate of Site Compatibility in this proceeding, an energy conversion facility that was not requested in Company's application in this proceeding, Company shall apply for a Certificate of Site Compatibility for the facility.

39. Company shall notify the Commission, as soon as reasonably possible, if any damage, as defined by North Dakota Century Code Chapter 49-23, occurs to underground facilities during construction conducted under the certificate or permit issued in this proceeding. In the event of any damage to underground facilities, Company shall suspend construction in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century

Code Chapter 49-23 has been determined and clearance to proceed has been given by the Commission.

40. The certificate of site compatibility is subject to suspension or revocation and may, after hearing, be suspended or revoked for failure to comply with the Commission's order, requirements of the One-Call Excavation Notice System under North Dakota Century Code Chapter 49-23, the conditions and criteria of the certificate or permit or subsequent modification, or failure to comply with applicable statutes, or rules, regulations, standards, and permits of other state or federal agencies.

Dated this 3rd day of July, 2013.

COURTENAY WIND FARM, LLC

By Elizabeth M. Engelking
Elizabeth M. Engelking

Its Vice President

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

Courtenay Wind Farm, LLC
200.5 MW Wind Energy Center – Stutsman County
Siting Application

Case No. PU-13-64

Tree and Shrub Mitigation Specifications

Inventory

1. Trees and shrubs anticipated to be cleared, including those that are considered invasive species or noxious weeds (*e.g., Caragana arborescens, Elaeagnus angustifolia, Rhamnus cathartica, Tamarix chinensis, T. parviflora, T. ramosissima, Ulmus pumila*), must be inventoried before cutting. The inventory must record the location, number, and species of trees and shrubs.

2. In windbreaks, shelterbelts and other planted areas, trees or shrubs anticipated to be cleared, regardless of size, must be inventoried for replacement.

3. In native growth areas, trees anticipated to be cleared that are 1 inch diameter at breast height (dbh) or greater must be inventoried for replacement.

4. In native growth areas, shrubs anticipated to be cleared in the permanent right-of-way must be inventoried for replacement.

5. In native growth areas outside the permanent right-of-way, shrubs must be cut flush with the surface of the ground, taking care to leave the naturally occurring seed bank and root stock intact. If soil disturbance is necessary, the native topsoil must be preserved and replaced after construction. Shrubs must be allowed to regenerate naturally where native topsoil is preserved and

replaced. Where native topsoil is not preserved and replaced, shrubs anticipated to be cleared must be inventoried for replacement.

6. In native growth areas, trees and shrubs may be inventoried by actual count or by a sampling method that will properly represent the woody vegetation population. A sampling plan developed by the company, filed with the North Dakota Public Service Commission (Commission) and approved prior to the start of construction must define the sampling method to be used for trees, for tall shrubs and for low shrubs. The data from the sample plots must be extrapolated to the total acreage of the wooded area to be cleared to determine the species and quantity of trees and shrubs to be replaced.

Clearing for Construction

7. Trees and shrubs must be selectively cleared, leaving mature trees and shrubs intact where practical.

8. The maximum width of clear cuts through windbreaks, shelterbelts and all other wooded areas is 50 feet, unless otherwise approved by the Commission.

9. If the area of trees or shrubs actually cleared differs from the area inventoried, the difference in number of trees and shrubs to be replaced must be noted on the inventory.

Replacement

10. Prior to tree and shrub replacement, documentation identifying the number and variety of trees and shrubs removed, as well as the mitigation plan for the proposed number, variety, type, location and date of replacement plantings, must be filed with the Commission for approval.

11. Two 2-year-old saplings must be planted for every one tree removed. Two shrubs (stem cuttings) must be planted for every one shrub removed.

12. Except in the case of invasive or noxious species, trees and shrubs must be replaced by the same species or similar species, suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service. Invasive or noxious species must be replaced by similar non-invasive or non-noxious species suitable for North Dakota growing conditions as recommended by the North Dakota Forest Service.

13. Landowners must be given the option of having replacement trees and shrubs planted on the landowner's property, either on or off the right-of-way. The landowner must also be given the opportunity to waive those options in writing in order to have replacement trees and shrubs planted off the landowner's property.

14. At the conclusion of the project, documentation identifying the actual number, variety, type, location and date of the replacement plantings must be filed with the Commission.

15. Tree and shrub replacements must be inspected annually, in September, for three years. The first annual inspection must be at least one year from the anniversary date of the original plantings. A report of each annual inspection must be submitted to the Commission by October 1 of each year, documenting the condition of plantings and any woodlands work completed as of September of each year. If after the third annual report the survival rate is less than 75%, the Commission may order additional planting(s).

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