

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Oliver Wind IV, LLC
200 MW Oliver Wind IV Energy Center-Oliver County
Siting Application**

Case No. PU-23-317

**Oliver Wind IV, LLC
345-kV Transmission Line - Oliver & Mercer
Siting Application**

Case No. PU-23-318

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

April 29, 2024

Appearances

Commissioners Randy Christmann, Julie Fedorchak, and Sheri Haugen-Hoffart.

Casey A. Furey and Erik J. Edison, Crowley Fleck PLLP, 100 West Broadway Avenue, Suite 250, Bismarck, North Dakota 58501, on behalf of Applicant Oliver Wind IV, LLC.

Brian L. Johnson, Special Assistant Attorney General, 600 E. Boulevard Ave., Dept. 408, Bismarck, North Dakota 58505-0480, North Dakota Public Service Commission.

Kevin Pranis, 81 East Little Canada Road, St. Paul, Minnesota 55117, Marketing Manager and Representative of Intervenor, Laborers District Council of Minnesota and North Dakota.

Timothy Dawson, Administrative Law Judge (ALJ), Office of Administrative Hearings, 2911 North 14th Street, Suite 303, Bismarck, North Dakota 58503, as Procedural Hearing Officer.

Preliminary Statement

On September 28, 2023, Oliver Wind IV, LLC (Oliver Wind IV) filed an application for a Certificate of Site Compatibility (Application) to construct an up to 200 megawatt (MW) wind energy facility known as the Oliver Wind IV Energy Center consisting of up to 73 wind turbine generators and associated facilities including three alternative turbine locations entirely in Oliver County, North Dakota (Wind Project), in Case No. PU-23-317.

Also on September 28, 2023, Oliver Wind IV filed an application for Certificate of Corridor Compatibility and a Route Permit for approximately 19.5 miles of 345 kilovolt

(kV) electric transmission line and associated facilities in Oliver and Mercer Counties, North Dakota (Transmission Project), in Case No. PU-23-318.

On December 13, 2023, the North Dakota Public Service Commission (Commission) consolidated Case Nos. PU-23-317 and PU-23-318 for hearing, deemed the applications for the Wind Project and the Transmission Project (Projects) complete, and issued a Notice of Filings and Notice of Consolidated Hearing (Notice), scheduling a consolidated public hearing for January 29th, 2024, at 10:00 a.m. Central Time, at the Betty Hagel Memorial Civic Center, 312 Lincoln Avenue, Center, ND 58530.

The Notice identified the following issues in the application for certificate of site compatibility in Case No. PU-23-317 and the applications for certificate of corridor compatibility and route permit in Case No. PU-23-318 are:

1. Will the location 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 January 11, 2024, the Laborers District Council of Minnesota and North Dakota (LIUNA) filed a Petition to Intervene in Case Nos. PU-23-317 and PU-23-318.

On January 22, 2024, ALJ Dawson issued an Order granting LIUNA's Petition to Intervene.

On January 29, 2024, a public hearing on the applications for the Projects (the Hearing) was held as scheduled in Center, North Dakota. Exhibits 1 through 21 were entered into the record by Oliver Wind IV at the Hearing. Exhibit 22 was entered into the record by Jayar Kindsvogel, President, Center Machine Inc. at the Hearing.

On February 6, 2024, Oliver Wind IV filed Late-Filed Exhibit 23.

On February 23, 2024, Oliver Wind IV filed Late-Filed Exhibits 24-26.

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. Applicant, Oliver Wind IV, LLC, is a Delaware limited liability company and is a wholly owned, indirect subsidiary of NextEra Energy Resources, LLC.
2. Oliver Wind IV is authorized to transact business in the State of North Dakota, as evidenced by the Certificate of Good Standing issued by the North Dakota Secretary of State and filed with the Commission in Case No. PU-23-319.
3. The Projects will be owned and operated by Oliver Wind IV.

Size, Type, and Preferred Location of Proposed Wind Project

4. Oliver Wind IV proposes to construct the Wind Project within approximately 22,291 acres of land in Oliver County, North Dakota (Project Area) as depicted in Figure 1 in Exhibit 1. The Wind Project consists of up to 73 wind turbines and three alternative turbine locations and will have a nameplate capacity of up to 200 MW.
5. Oliver Wind IV anticipates utilizing General Electric (GE) 2.82 MW wind turbine generators. The GE 2.82 MW wind turbines will have a 292-foot hub height and measure 500 feet from the base of the tower to the tip of the upright blade. Oliver Wind IV has requested the flexibility to use up to five GE 2.52 MW wind turbines with a 295-foot hub height and will measure 486 feet from the base of the tower to the tip of the upright blade. Each turbine will be grounded and shielded to prevent against lightning strike.
6. Additional facilities associated with the Wind Project include access roads, underground electrical collection and communication systems, a collection substation, an operation and maintenance building, one permanent meteorological evaluation tower (MET), and two permanent Aircraft Detection Lighting System (ADLS) radar system towers.
7. The power from the wind turbines will be run through an underground 34.5 kV collection system. The collection system will terminate at the collector substation where the voltage will be stepped up from 34.5 kV to transmission line voltages for interconnection to the transmission grid.
8. The Wind Project will have Supervisory Control and Data Acquisition (SCADA) system for remote monitoring, reporting, troubleshooting, and control of turbine equipment and performance.
9. The Wind Project will interconnect to the grid at the Basin Electric Power Cooperative's new 345 kV Leland Olds Substation in Mercer County, North Dakota utilizing the Transmission Project.
10. The Wind Project will be constructed pursuant to National Electrical Safety Code (NESC) requirements.

11. Oliver Wind IV has entered a 15-year power purchase agreement with Verizon Communications, Inc. for the full output of energy produced by the Wind Project.
12. Oliver Wind IV has executed or pending easements and land agreements necessary for the siting and construction of the Wind Project and associated facilities.
13. Oliver Wind IV anticipates a December 2024 in-service date for commercial operations of the Wind Project.
14. The estimated total cost to construct the Wind Project is approximately \$345 million.

Size, Type, and Preferred Location of Proposed Transmission Project

15. Oliver Wind IV proposes to construct, own, and operate the Transmission Project, an approximately 19.5-mile long 345 kV electric transmission line and associated facilities of which approximately 10.8 miles are located in Oliver County and approximately 8.7 miles are located in Mercer County, North Dakota.
16. The project corridor is generally 150 feet wide with additional width at structures with guy wires (Project Corridor) and encompasses approximately 379 acres. The Transmission Project will originate at the Wind Project collection substation in Oliver County and terminate at the interconnection to the new Basin Leland Olds Station 345-kV Substation (LOS) in Mercer County, North Dakota.
17. The Transmission Project will be constructed using approximately 121 transmission line structure locations, which includes steel monopole structures and four tri-pole dead-end structures. The average height of a single pole structure is 120 feet and will range from 100 to 170 feet. Structure foundation types include direct embed used for tangent structures and drilled shaft with concrete foundations used for angle and dead-end structures. Structure spans will range from 200 feet to 1,200 feet with an average span of approximately 900 feet.
18. The Transmission Project will meet the requirements of the NESC.
19. Oliver Wind IV has executed or pending agreements for all easements and land agreements necessary for the siting and construction of the Transmission Project. Two easements from Great River Energy and Basin will be finalized upon Transmission Project approval from the Commission. Remaining pending agreements will be executed prior to the start of construction for which such authorization is required.
20. Oliver Wind IV anticipates a December 2024 in-service date for commercial operations of the Transmission Project.

21. The estimated total cost to construct the Transmission Project is approximately \$45 million.

Study of Preferred Location for the Wind Project

22. Oliver Wind IV conducted natural resource field surveys within the Wind Project. The field surveys gathered information on soils, land use and vegetation, wetlands and waterbodies, woodlands, trees and shrubs, and wildlife, including protected species and critical habitats.

23. Oliver Wind IV filed the following reports in support of its Application which contain the results of various wildlife and habitat surveys and studies as follows. Results of the studies were used in siting to avoid or minimize impacts.

- a. Avian Use Study: Oliver Wind IV conducted avian use studies to evaluate use of the Wind Project area by avian species, such as waterfowl, grassland nesting birds, raptors, and eagles. The assessment concluded that eagle use was low within the study area and that no federally threatened or endangered species were recorded within the study area.
- b. Sharp-Tailed Grouse Lek Surveys: Oliver Wind IV conducted aerial and ground-based sharp-tailed grouse lek surveys to document number and location of grouse leks within the study area.
- c. Raptor Nest Surveys: Oliver Wind IV conducted aerial and ground-based raptor nest surveys to document nest locations.
- d. Whooping Crane Habitat Assessment: Oliver Wind IV conducted a whooping crane habitat assessment to evaluate potential whooping crane habitat use. The assessment concluded the probability of use is low in any given year and that impacts are unlikely.
- e. Dakota Skipper Habitat Assessment: Oliver Wind IV conducted a Dakota skipper habitat assessment. The assessment identified and described approximately 0.26 acres of suitable Dakota skipper habitat within the Wind Project construction easement. Impacts to this habitat will be avoided and adverse impacts to Dakota skipper are not anticipated.
- f. Northern Long-Eared Bat Surveys: Oliver Wind IV conducted a northern long-eared bat (NLEB) desktop habitat assessment and field presence/absence surveys in support of the Wind Project. NLEB were detected at two sites during 2019 surveys, at one site during the 2020 surveys, and not at all during 2022 surveys. The species was documented in low numbers during the bat surveys suggesting minimal risk to NLEB from construction and operation of the Project.

- g. Wetlands and Other Waters Delineation Report: Oliver Wind IV conducted surveys to identify and describe wetlands and other waters delineated in the Wind Project. The Wind Project has been sited to avoid and minimize impacts to wetlands and other waters.
- h. Unbroken Grassland Assessment: Oliver Wind IV conducted an unbroken grassland assessment to assess grassland types within the Wind Project and summarizes the desktop assessment and field surveys. Unbroken grasslands are located within the Wind Project. All 73 wind turbines and three alternative turbine locations are located in cropland or broken grassland.

24. Oliver Wind IV used the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Conservation tool and onsite surveys to identify the potential for occurrence of threatened or endangered species or their designated critical habitat within the Wind Project. This tool identified five threatened or endangered species that could potentially occur within the Wind Project: piping plover (threatened), rufa red knot (threatened), whooping crane (endangered), Dakota skipper butterfly (threatened), and northern long-eared bat (NLEB) (endangered). Oliver Wind IV's studies and surveys concluded the Wind Project lacks suitable habitat for the piping plover and rufa red knot. Impacts are not anticipated to the whooping crane, Dakota skipper butterfly, and NLEB based on Oliver Wind IV's siting and mitigation measures. Adverse impacts to these species are not anticipated. No designated critical habitat for threatened or endangered species is located within the Wind Project.

25. Trees and shrubs are sparsely located within the Wind Project, and Oliver Wind IV has sited the Wind Project to avoid impacts to trees and shrubs to the extent practicable. Tree or shrub removal and replacement will be coordinated with landowners and conducted in accordance with the Commission's Tree and Shrub Mitigation Specifications. Oliver Wind IV requested clearance of up to 600 feet in width for nine turbine locations to accommodate construction and final turbine placement to remove obstructions from adjacent tree rows. These locations are depicted in Exhibit 1, Figure 13.

26. Oliver Wind IV conducted a Class I Literature Search of the Wind Project area plus a one-mile study area to identify previously recorded archaeological sites identified during previous surveys.

27. Oliver Wind IV conducted Class III Cultural Resource Inventories from 2019 to 2023 for archaeological resources for areas to be temporarily and permanently impacted by the Wind Project and submitted the reports to the North Dakota State Historical Preservation Office (SHPO). On July 14, 2021, and January 25, 2024, SHPO issued letters for archaeological resources located within the Wind Project and determined there are no adverse direct effects on significant sites.

28. Oliver Wind IV assessed the potential for historic architectural resources in the Wind Project by conducting an architectural inventory through a Class II Architectural

Reconnaissance Inventory within the Wind Project and within two miles of wind turbine locations and submitted the report to the SHPO. Two identified sites, a historic farmhouse and an abandoned farmstead, are located outside of the Wind Project site and were determined eligible for inclusion on the National Register of Historic Places (NRHP). SHPO agreed with the NRHP eligibility determination in a letter issued on December 7, 2023. Although both sites are located outside of the Wind Project, and any potential indirect impacts to these sites are minimal from the Wind Project, Oliver Wind IV coordinated with the SHPO to avoid potential indirect viewshed impacts to these sites through a mitigation plan. On December 21, 2023, the SHPO agreed Oliver Wind IV's mitigation proposal for the two sites, which consists of documenting both historic sites to a State Historic American Buildings Survey Level III specification, will be sufficient to offset indirect visual impacts.

Study of Preferred Location for Transmission Project

29. The study corridor for the Transmission Project consisted of a one-mile-wide corridor centered on the Transmission Project route (Study Area). The Study Area is in rural North Dakota in an area predominantly comprised of cultivated land, hayfields, pasturelands, and grasslands.

30. Oliver Wind IV performed a desktop evaluation on the Study Area for soils, wetlands and waterbodies, trees and shrubs, and protected species and critical habitats.

31. Oliver Wind IV conducted a Class I Literature Search for the Project Corridor plus a one-mile buffer to identify previously recorded archaeological sites identified during previous surveys.

32. Oliver Wind IV conducted Class III Cultural Resource Inventories from 2019 to 2023 for areas to be temporarily and permanently impacted by the Transmission Project and within the Project Corridor. The Class III reports were submitted to the SHPO. On June 21, 2021, and January 19, 2024, SHPO issued letters for archaeological resources located within the Transmission Project Corridor and determined "there are no adverse direct effects on significant sites."

33. Oliver Wind IV conducted a natural resource field survey within the Project Corridor. The field survey gathered information on soils, land use and vegetation, wetlands and waterbodies, woodlands, trees and shrubs, and wildlife, including protected species and critical habitats.

34. Oliver Wind IV filed the following reports in support of its Application, which contain the results of various wildlife and habitat surveys and studies, as follows:

- a. Sharp-tailed Grouse Lek Surveys: Oliver Wind IV completed two years of aerial and ground sharp-tailed grouse lek surveys. Two confirmed leks were documented within the Study Area during the 2019 and 2020 surveys. Among these leks, none were located within the Project Corridor.

- b. Raptor Nest Surveys: Oliver Wind IV conducted two years of aerial and ground raptor nest surveys in 2020 and 2022. Surveys concluded there were no eagle nests in the Project Corridor and one active non-eagle raptor nest within the Project Corridor.
- c. Whooping Crane Habitat Assessment: Oliver Wind IV conducted a whooping crane habitat assessment to evaluate potential whooping crane habitat use. The assessment concluded the probability of use is low in any given year and that impacts are unlikely.
- d. Dakota Skipper Habitat Assessment: Oliver Wind IV conducted a Dakota skipper habitat assessment. The assessment identified and described approximately 0.1 acre of suitable Dakota skipper habitat within the Project Corridor. Impacts to this habitat will be avoided and adverse impacts to Dakota skipper are not anticipated.
- e. Northern Long-Eared Bat Surveys: Oliver Wind IV conducted NLEB desktop habitat assessment and presence/absence surveys in support of the Transmission Project. To minimize potential impacts on the NLEB and its roosting habitat during the active season, restrictions on tree removal will be in effect within a three-mile conservation buffer around the two NLEB positive locations that intersect the Study Area from April 1 to October 31. No adverse impacts are anticipated.
- f. Wetlands and Other Waters Delineation Report: Oliver Wind IV conducted surveys to identify and describe wetlands and other waters delineated in the Project Corridor. The Transmission Project is not expected to impact wetlands or other waters.

35. Oliver Wind IV used the USFWS Information for Planning and Conservation tool to identify threatened or endangered species or designated critical habitat within the Study Area. This tool identified five threatened or endangered species that could potentially occur within the Study Area: piping plover (threatened), rufa red knot (threatened), whooping crane (endangered), Dakota skipper butterfly (threatened), and NLEB (endangered). Oliver Wind IV's studies and surveys concluded the Transmission Project lacks suitable habitat for the piping plover and rufa red knot. Impacts are not anticipated to the whooping crane, Dakota skipper butterfly, and NLEB based on Oliver Wind IV's siting and mitigation measures. Adverse impacts to these species are not anticipated. No designated critical habitat for threatened or endangered species is located within the Transmission Project.

36. Oliver Wind IV is developing a voluntary Wildlife Conservation Strategy, which includes an adaptive management approach so that information gathered and experience gained from post-construction monitoring can be used to inform future management decisions at the Transmission Project.

37. Tree and Shrubs are sparsely located within the Project Corridor, and Oliver Wind IV has avoided impacts to trees and shrubs to the extent practicable. Oliver Wind IV has requested an amendment to the Commission's Tree and Shrub Mitigation Specifications to allow for clearance of up to 150 feet in width consistent with the requested Project Corridor for the safety of facility infrastructure and monitoring purposes. Tree or shrub removal and replacement will be coordinated with landowners and conducted in accordance with the Commission's Tree and Shrub Mitigation Specifications.

Agency Consultations for Wind Project and Transmission Project

38. Oliver Wind IV sent coordination letters to the federal, state, and local departments, agencies, and entities designated in N.D. Admin. Code § 69-06-01-05. North Dakota Century Code § 49-22-16(4) provides 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 least thirty days before the public hearing. The federal, state, and local departments, agencies, and entities that provided comment in response are as follows:

- a. Federal: United States Army Corps of Engineers; United States Department of Agriculture – Natural Resources Conservation Service; United States Fish and Wildlife Service; Office of the Assistant Secretary of Defense - Military Aviation and Installation Assurance Siting Clearinghouse; and the United States Minot Air Force Base.
- b. State: Aeronautics Commission; Industrial Commission; Parks and Recreation Department; North Dakota Geological Survey; Department of Environmental Quality; Department of Transportation; Game and Fish Department; Department of Agriculture; Department of Trust Lands; North Dakota State Water Commission; and, the State Historical Society of North Dakota.

39. Agency consultations and comments are noted in the Application, exhibits, and testimony presented at the public hearing. Oliver Wind IV has avoided, minimized, and/or mitigated impacts for all issues raised by local, state, and federal agencies.

40. Oliver Wind IV coordinated with, and received a response from the National Telecommunications and Information Administration (NTIA) stating that no federal agencies represented in the Interdepartment Radio Advisory Committee had issues with turbine placement in the area. NTIA did not identify any concerns regarding radio frequency blockage from the Wind Project. The NTIA issued a No Harmful Interference Anticipated determination that the Transmission Project is not anticipated to interfere with telecommunications.

41. Oliver Wind IV received a response from the U.S. Dept. of Defense indicating the Projects will have minimal impact on military operations conducted in the area.

42. Oliver Wind IV conducted a telecommunications study to identify all published Federal Communications Commission microwave telecommunications systems in proximity of the Wind Project area. Based on the results of this study, impacts to these systems are not anticipated from the Wind Project's turbines.

43. Oliver Wind IV obtained Determinations of No Hazard from the Federal Aviation Administration (FAA) for all Wind Project turbines, alternate turbine locations, the permanent MET, and two ADLS radar towers at the Wind Project. The Transmission Project will not be considered an obstruction to air navigation under FAA regulations. No part of the Transmission Project will exceed 200 feet in height above ground level. The Transmission Project will include bird diverters, which can provide visibility during the day for low flying aircraft.

44. Oliver Wind IV undertook a voluntary outreach and consultation with Native American tribes to address potential cultural concerns and avoid potential impacts to resources of tribal or cultural significance.

45. North Dakota Century Code § 49-22-16(2) provides that no energy conversion facility site shall be designated that violates any local land use, zoning, or building rules, regulations, or ordinances. Oliver Wind IV has obtained a conditional use permit from Oliver County for the Wind Project (Exhibit 3).

46. Oliver Wind IV has obtained conditional use permits from Oliver County for the Wind Project and Oliver and Mercer Counties for the Transmission Project. Oliver Wind IV testified that when Oliver County issued a conditional use permit for the Transmission Project, it referenced the incorrect corridor width for the Transmission Project. Oliver Wind IV testified it will work with Oliver County to obtain any necessary corrections to the existing conditional use permit.

Siting Criteria – Wind Project

47. North Dakota Administrative Code (NDAC) § 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 NDAC Section 69-06-08-01 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria and Policy Criteria.

48. Five Exclusion Areas specific to wind energy conversion facilities are present within the Project Area: (a) areas less than 1.1 times the height of the turbine from the nearest edge of an interstate or state roadway right-of-way; (b) areas less than 1.1 times the height of the turbine plus 75 feet from the centerline of any county or maintained township roadway; (c) areas less than 1.1 times the height of the turbine from the nearest edge of any railroad right-of-way; (d) areas less than 1.1 times the turbine height from the nearest edge of a 115 kV or higher transmission line right-of-way; and (e) areas less than 1.1 times the turbine height from the property line of a non-participating landowner and three times the height of the turbine from an inhabited rural residence of a non-

participating landowner, unless a variance has been granted. No turbines will be located within these Exclusion Areas.

49. Designated and registered archaeological sites are located within the Wind Project. Oliver Wind IV has sited the Wind Project to avoid impacts to these sites.

50. NDAC § 69-06-08-01(3) identifies various avoidance areas. 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.

51. Historical Resources are present within the Project Area. Oliver Wind IV has sited the Wind Project to avoid impacts to historical resources. Oliver Wind IV and SHPO have agreed on mitigation to address visual impacts to the two historic sites eligible for listing on the National Register of Historic Places. SHPO has agreed that mitigation efforts proposed will be sufficient to offset the minimal visual impacts from the Wind Project.

52. Wetland delineations were completed for the Wind Project. The Wind Project has been sited to avoid permanent impacts to wetlands to the greatest extent possible. Two wetlands are planned to be permanently impacted. Permanent impacts to wetlands remain negligible and total approximately 0.02 acres or 870 sq. feet. Oliver Wind IV testified there is no reasonable alternative to impacting the two wetland locations.

53. The first permanent wetland impact is less than 0.01 acres and is associated with an access road to Turbine 46. Oliver Wind IV testified there is no reasonable alternative to impacting the wetland in this location. The wetland is located along an existing quarter-section two-track. Oliver Wind IV worked with the landowner to minimize impacts and sited the access road to Turbine 46 along the existing two-track, which also runs along the edge of the landowner's agricultural field, and intersects the wetland in this location. Other options explored for this access road would have required Oliver Wind IV to build the access road across cropland or unbroken grassland. However, these options were rejected to preserve unbroken grassland, avoid disruption to the landowner's ongoing agricultural activities, and minimize additional impacts by utilizing the existing two-track.

54. The second permanent wetland impact is less than 0.01 acres and is associated with the access road to Turbine 35. Oliver Wind IV testified there is no reasonable alternative to impacting the wetland in this location. The access road in this location is designed to take the straightest and shortest path to the turbine, and avoids impacts to unbroken grasslands, as well as neighboring landowners. Other options explored for this access road would have resulted in significantly greater land disturbance, approximately four times as long, approximately half of which would impact unbroken grasslands.

55. Areas deemed as landslide deposits mapped by the North Dakota Geological Survey (NDGS) are within the Wind Project. No wind turbines have been sited within

mapped landslide deposits. Oliver Wind IV identified three areas in Exhibit 1, Figure 16 where collection lines appear to intersect areas of potential NDGS-mapped landslide deposits. Oliver Wind IV testified it will avoid siting infrastructure in areas that are geologically unstable. Oliver Wind IV will confirm the mapping for these three locations through field verification prior to construction. Oliver Wind IV will provide the results of the field verifications to the Commission. If the feature is confirmed to be geologically unstable through field verification, Oliver Wind IV will either bore to an appropriate depth to avoid the feature or reroute the collection line. If Oliver Wind IV elects to bore these locations, Oliver Wind IV will file geotechnical reports with the Commission prior to conducting such bores. If Oliver Wind IV elects to reroute collection in the identified areas, it will submit certifications to the Commission for these changes.

56. No other avoidance areas identified in NDAC § 69-06-08-01(3) are identified with respect to the Wind Project.

57. In accordance with the Commission's Selection Criteria, a site may 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 in accordance with NDAC Section 69-06-08-01(6).

58. With all 73 proposed turbine locations and associated facilities, the Project would occupy up to approximately 55.3 acres of land, or approximately 0.25 percent of the total Project Area, during the life of the Wind Project. Oliver Wind IV will continue to work with landowners to minimize land use disruptions from the siting of the facilities. No impacts to the quality of the agricultural land are anticipated. .

59. Oliver Wind IV submitted evidence demonstrating any significant adverse effects resulting from the location, construction, and operation of the Project as they relate to the Selection Criteria set forth in NDAC § 69-06-08-01(5) will be at an acceptable minimum or managed and maintained at an acceptable minimum.

60. Oliver Wind IV will utilize best management practices to minimize impacts on ground and surface water, and to prevent soil erosion. Erosion control measures required under the National Pollution Discharge Elimination System permit and the associated Stormwater Pollution Prevention Plan will be implemented. Construction of the Wind Project is not anticipated to have a significant adverse impact on surface or ground water resources or soils. Temporarily disturbed areas will be restored and reseeded.

61. During construction, the Wind Project may result in a temporary increase in traffic on county and township roads. The increase in traffic during construction is not expected to be at a volume that will disrupt residents or travel in the Wind Project area. During operation, no adverse effects to transportation facilities or networks are anticipated.

62. The Wind Project will not have significant adverse impacts on the ability of the affected area to provide community services, such as housing, health care, educational services, police and fire protection, water and sewer, or solid waste management.

63. Oliver Wind IV coordinated with the North Dakota Game and Fish Department (NDGFD), USFWS, and the North Dakota Department of Agriculture (NDDA) with respect to the Wind Project regarding avoidance, minimization, and mitigation related to habitat and wildlife (Exhibit 9).

64. Based on the totality of the evidence presented, the Commission finds Oliver Wind IV has sited the Project to minimize potential impacts to wildlife.

65. Oliver Wind IV conducted an acoustic analysis to assess whether sound levels from the Wind Project will exceed 45 A-weighted decibels (dBA) within 100 feet of an existing inhabited residence or community building (receptor) pursuant to N.D. Admin. Code § 69-06-08-01(4). The Wind Project meets the Commission's sound level requirements at all existing receptors identified in Exhibit 1, Appendix B2 and Exhibit 15.

66. Oliver Wind IV conducted shadow flicker analysis on existing receptors, using realistic modeling assumptions. Based on the shadow flicker analysis, potential shadow flicker levels are expected to be below the Commission's accepted 30 hours per year standard at all existing receptors identified in Exhibit 1, Appendix B3 and Exhibit 15.

67. The Wind Project will not have significant adverse impacts on temporary and permanent labor.

68. An ADLS will be installed in compliance with FAA requirements and North Dakota Century Code § 49-22-16.4.

69. Oliver Wind IV has an executed generator interconnection agreement with the Southwest Power Pool, Inc. and Basin Electric Power Cooperative (GEN-2016-130).

Siting Criteria – Transmission Project

70. The Commission has established criteria pursuant to North Dakota Century Code § 49-22-05.1 to guide the Commission in evaluating the suitability of granting a Certificate of Corridor Compatibility and Route Permit. The criteria, as set forth in North Dakota Administrative Code § 69-06-08-02 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

71. Exclusion and avoidance areas may be located within a corridor, but at no given point may such an area or areas encompass more than fifty percent of the corridor width unless there is no reasonable alternative.

72. Section 69-06-08-01(1) of the North Dakota Administrative Code identifies various exclusion areas. Under the Commission's criteria, geographic areas identified as

exclusions areas must be excluded in the consideration of a route for a transmission facility. A buffer zone of a reasonable width to protect the integrity of the area must be included.

73. Designated or registered state parks, historic sites, monuments, historical markers, archaeological sites, and nature preserves are identified as exclusions areas by N.D. Admin. Code § 69-06-08-02(1)(b). Oliver Wind IV identified archeological sites through a Class I Literature Search and a Class III Cultural Resources Inventory. Designated and registered archaeological sites are located within the Project Corridor; however, Oliver Wind IV has sited the Transmission Project to avoid these sites.

74. No additional known Exclusion Areas are located within the Project Corridor.

75. Section 69-06-08-02(2) of the North Dakota Administrative Code identifies various avoidance areas. Under the Commission's criteria, geographical areas identified as avoidance areas may not be considered in the routing of a transmission facility 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 routes. Economic considerations alone will not justify approval of these areas. A buffer zone of reasonable width to protect the integrity of the area will be included unless a distance is specified in the criteria.

76. Areas that are geologically unstable are an Avoidance Area. Areas deemed as landslide deposits mapped by the NDGS are within the Project Corridor. Oliver Wind IV will avoid areas that are geologically unstable, and no transmission line structures are located within a mapped landslide deposit, as indicated by the NDGS landslide mapping program.

77. No additional known Avoidance Areas are located within the Project Corridor.

78. In accordance with the Commission's Selection Criteria, a transmission facility may be approved in an area when/if it is demonstrated to the Commission by the applicant that any significant adverse effects that will result from the location, construction, and operation of the facility in that area as they relate to the criteria designated in N.D. Admin. Code § 69-06-08-02(3) will be at an acceptable minimum, or will be managed and maintained at an acceptable minimum.

79. North Dakota Administrative Code § 69-06-08-02(3)(b)(4) requires the Commission to consider the impact upon wetlands, woodlands, and wooded areas. Wetland delineations were completed within the Project Corridor. Based on the wetlands and other waters delineation surveys, the Transmission Project will avoid direct impacts to wetlands. The Project Corridor lacks large, contiguous woodlands, and the Transmission Project has been sited to avoid impacts to woodlands.

80. In accordance with the Commission's Policy Criteria, the Commission may give preference to an applicant that will maximize benefits that result from the adoption of identified policies and practices in N.D. Admin. Code § 69-06-08-02(4). The Commission may also give preference to an applicant that will maximize interstate benefits.

81. The Transmission Project and associated facilities are expected to result in minimal permanent disturbance and surface occupation of less than one acre of land. No landowners will be displaced by the Transmission Project. Oliver Wind IV will continue to work with landowners to minimize land use disruptions from the Transmission Project. No impacts to irrigation or quality of agricultural land are anticipated.

82. Oliver Wind IV will utilize best management practices to minimize impacts on ground and surface water, and to prevent soil erosion. Erosion control measures required under the National Pollution Discharge Elimination System permit and the associated Stormwater Pollution Prevention Plan will be implemented. Construction of the Transmission Project is not anticipated to have a significant adverse impact on surface or ground water resources or soils. Temporarily disturbed areas will be restored and reseeded.

83. During construction, the Transmission Project may result in a temporary increase in traffic on county and township roads. The increase in traffic during construction is not expected to be at a volume that will disrupt residents or travel in the Transmission Project area. During operation, no adverse effects to transportation facilities or networks are anticipated.

84. The Transmission Project will not have significant adverse impacts on the area's availability to provide law enforcement, government, health, education, community, and utility facilities or services.

85. Oliver Wind IV has coordinated and consulted with NDGFD and USFWS regarding avoidance, minimization, and mitigation related to habitat and wildlife as evidenced by Exhibit 9.

86. The Transmission Project will not have significant adverse impacts on temporary and permanent labor.

Measures to Minimize Impacts

87. Oliver Wind IV engaged with personnel at the National Park Service (NPS) regarding the Projects. In July 2023, the NPS identified possible indirect visual impacts the Projects may have on views from the Knife River Indian Villages National Historic Site and the Fort Clark State Historic Site. Both sites are located outside of the Wind Project and Project Corridor. The Knife River Indian Villages is located approximately 9.5 miles northwest of the closest wind turbine and approximately 3.2 miles north of the closest transmission structure. The Fort Clark State Historic Site is located approximately 6.8 miles east-northeast of the closest wind turbine and approximately 1.7 miles east-

southeast of the closest transmission structure. In response, Oliver Wind IV completed a viewshed analyses for the Projects utilizing procedures outlined in the U.S. Bureau of Land Management visual resources management handbook, as suggested by the NPS. Oliver Wind IV provided the analyses to the NPS and SHPO. The analyses concluded the Projects will not visually detract from the viewsheds of Knife River Indian Villages or Fort Clark State Historic Site because of the distance of the Projects' features and the similarity of these features with other existing infrastructure on the landscape. On January 31, 2024, the SHPO issued correspondence stating it had reviewed the visual study provided by Oliver Wind IV, and "[does] not believe Fort Clark State Historic Site or the Knife River Indian Villages National Historic Site will be adversely impacted" by the Wind Project (Case No. PU-23-317, Docket No. 28) and by the Transmission Project (Case No. PU-23-318, Docket No. 31).

88. Oliver Wind IV has agreed to take certain steps to mitigate the impact of the Wind Project and Transmission Project as indicated in the Certification Relating to Order Provisions with accompanying Tree and Shrub Mitigation Specifications, filed with the Commission as Exhibit 13 and Exhibit 14, respectively.

89. Oliver Wind IV has sited the Wind Project to comply with the Commission's setback regulations. Currently, the nearest existing non-participating inhabited residence to a Wind Project turbine is 2,213 feet.

90. Oliver Wind IV has developed a voluntary Wildlife Conservation Strategy to help fully evaluate risk to wildlife, document efforts taken to reduce potential impacts through avoidance and minimization efforts, establish post-construction efforts, and outline agreed upon offsetting measures or mitigation.

91. During construction, road speed within the Wind Project will be limited to 25 miles per hour to minimize wildlife collisions and to reduce dust emissions.

92. Oliver Wind IV will avoid temporary and permanent impacts to field-verified suitable Dakota skipper habitat. High visibility fencing (e.g., snow fence) will be placed around field-verified suitable Dakota skipper habitat areas near construction to restrict construction equipment from disturbing these areas.

93. Oliver Wind IV has sited all turbines within the range of the NLEB to be greater than 1,000 feet from potential NLEB habitat to minimize potential impacts to the NLEB and its roosting habitat. Turbines will be curtailed, following USFWS recommendations. Additionally, during construction, restrictions on tree removal will be in effect within a three-mile conservation buffer around the one NLEB positive location that intersects the Wind Project from April 1 to October 31. No adverse impacts are anticipated.

94. Oliver Wind IV has adopted siting buffers around known eagle nests and grouse leks to minimize disturbance. Oliver Wind IV has sited turbines at least two miles from known active eagle nests, and one-half mile from confirmed sharp-tailed grouse leks. Adverse impacts from the Transmission Project to bald and golden eagles are not

anticipated. The closest known bald eagle nest to the Transmission Project identified during field surveys was 5.1 miles from the Project Corridor. Oliver Wind IV will conduct additional pre-construction surveys for previously unidentified eagle nests. Any newly found occupied or active eagle nests will be avoided by a minimum of 660 feet for bald eagle nests and 0.5 miles for golden eagle nests during construction until the nests become inactive.

95. Oliver Wind IV will follow Avian Power Line Interaction Committee suggested practices to avoid and minimize the potential for avian collisions and will bury electric collection lines and use un-guyed permanent meteorological evaluation towers or install bird diverters.

96. During construction, Oliver Wind IV will provide contractors with constraint maps that identify sensitive areas within the Wind Project and Project Corridor for avoidance. Oliver Wind IV will ensure compliance through onsite environmental construction monitoring.

97. Throughout operations of the Wind Project, Oliver Wind IV will implement a voluntary Whooping Crane Identification Training and Curtailment Procedure to shut down turbines if whooping cranes are observed within one mile of a turbine.

98. Oliver Wind IV will complete one-year of post-construction monitoring for birds and bats.

99. Oliver Wind IV testified that through its design and siting of the Wind Project and the avoidance, minimization, and restoration measures outlined in the Application, supporting materials, and in its testimony, Oliver Wind IV has achieved the minimal adverse impact threshold for impacts to wildlife. To further mitigate potential indirect impacts to grassland birds in response to concerns identified by the USFWS and NDGF, Oliver Wind IV voluntarily committed to mitigate for remaining potential residual impacts to grassland nesting birds by contributing to the NDDA's Environmental Mitigation Fund. Oliver Wind IV's commitment is memorialized in a Memorandum of Understanding executed between Oliver Wind IV and the NDDA submitted as Late-Filed Exhibit 23.

100. Oliver Wind IV will coordinate with local Natural Resource Conservation Services staff to revegetate noncropland and pasture areas temporarily disturbed during construction or operation of the wind facility with locally sourced certified weed free native seed mixes appropriate to the region.

101. Oliver Wind IV will reseed temporarily disturbed areas or restore to crop, based on the conditions of the area prior to construction and based on landowner preference, and will coordinate with the Oliver County and Mercer County Weed Boards to implement a voluntary noxious weed prevention plan to minimize the spread of noxious weeds during construction.

102. Oliver Wind IV will participate in the North Dakota One-Call Excavation Notice System.

103. Oliver Wind IV will file a decommissioning plan and decommissioning financial assurance in compliance with North Dakota Administrative Code Chapter 69-09-09 prior to the commencement of operation of the Projects, and performing decommissioning in accordance with all applicable rules and regulations.

Additional Issues

104. LIUNA intervened in the proceeding and witnesses Steve Cortina and Kevin Pranis provided testimony about the benefits of hiring a local labor force for energy conversion and transmission projects. LIUNA's analysis indicates that using a majority local labor force can provide a \$10 million incremental increase to local economic activity. Oliver Wind IV testified that it would work with its engineering, procurement, and construction contractors (EPCs) such that its EPCs will endeavor to utilize available local labor.

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

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over Oliver Wind IV and the subject matter of the applications submitted in PU-23-317 and PU-23-318 under NDCC Chapter 49-22.
2. Oliver Wind IV is a utility as defined in N.D.C.C. § 44-22-03(13).
3. The wind energy conversion facility proposed by Oliver Wind IV is an electric energy conversion facility as defined in N.D.C.C. § 49-22-03(5).
4. The transmission line facility proposed by Oliver Wind IV is an electric transmission facility as defined in N.D.C.C. § 49-22-03(6).
5. The applications submitted by Oliver Wind IV for the Wind Project and the Transmission Project meet the site evaluation criteria as required by N.D.C.C. Ch. 49-22.
6. The location, construction, and operation of the Wind Project and Transmission Project will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
7. The Wind Project and Transmission Project 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.

8. The location, construction, and operation of the Wind Project and Transmission Project are compatible with environmental preservation and the efficient use of resources.

9. The Commission has jurisdiction to ensure compliance with the National Electrical Safety Code standards in the construction and operation of the Wind Project.

From the foregoing Findings of Fact and Conclusions of Law, the Commission issues the following:

ORDER

The Commission orders:

WIND PROJECT – PU-23-317

1. Certificate of Site Compatibility for an Energy Conversion Facility No. 67 is issued to Oliver Wind IV, LLC for the construction, operation, and maintenance of a wind energy conversion facility known as the Oliver Wind IV Energy Center corresponding to the Wind Project area depicted in Exhibit 1, Figure 16.

2. Within the permitted site, Oliver Wind IV is authorized to site and construct up to 73 wind turbines in proposed and alternative locations as identified in Exhibit 1, Figure 16, along with electric collection and communication lines, a substation, access roads, an operations and maintenance building, and other associated facilities as identified in the Application and supporting filings, and at the public hearing.

3. Oliver Wind IV's Certification Relating to Order Provisions with accompanying Tree and Shrub Mitigation Specifications filed with the Commission as Exhibit 13 is incorporated by reference and attached to this Order. The Tree and Shrub Mitigation Specifications may be modified upon the mutual agreement of the Commission and Oliver Wind IV. The Commission authorizes tree and shrub clearance in excess of 50 feet in width in the nine locations depicted in Exhibit 1, Figure 13.

4. If modifications are made to the Wind Project layout, Oliver Wind IV shall complete a Class III Cultural Resource Survey for any previously un-surveyed portions of the designated site affected by Wind Project-related construction activities, in accordance with SHPO guidance, and shall submit cultural resource findings to SHPO for review, and file a copy of SHPO's response with the Commission prior to beginning construction in said areas.

5. If modifications are made to the Wind Project layout, Oliver Wind IV shall complete a wetland determination of any previously un-surveyed areas affected by Wind Project-related activities, as necessary, and file the report with the Commission.

6. Oliver Wind IV shall comply with the Commission's Avoidance Area sound requirement. If modifications are made to the Wind Project layout that are not covered by

the current acoustic analysis, Oliver Wind IV shall conduct an acoustic analysis and file a report with the Commission that shows the predictive model results comply with the Commission's Avoidance Area sound requirement at all currently existing receptors, unless otherwise agreed to by the landowner.

7. Oliver Wind IV shall site Wind Project turbines so as to meet the shadow flicker limit of 30 hours per year or less at each currently inhabited residence, considering site-specific conditions, unless otherwise agreed to by the landowner. When final turbine selections are completed, or in the event Wind Project modifications occur that are not covered by its current shadow flicker analysis, Oliver Wind IV shall conduct further shadow flicker analysis to ensure this requirement is met unless otherwise agreed to by the landowner.

8. For the three areas Oliver Wind IV identified as potentially geologically unstable, Oliver Wind IV shall file the results of field verification of these locations prior to commencing construction in these areas. If Oliver Wind IV elects to bore these locations, Oliver Wind IV will file geotechnical reports with the Commission prior to conducting such bores. If Oliver Wind IV elects to reroute collection in the identified areas, Oliver Wind IV will submit certifications to the Commission for these changes prior to rerouting in these areas.

9. Prior to commencing construction of any portion of the Project, Oliver Wind IV shall obtain all other necessary licenses and permits for the construction of such portion and provide copies to the Commission.

TRANSMISSION PROJECT – PU-23-318

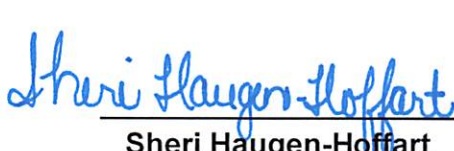
1. Certificate of Corridor Compatibility No. 233 is issued to Oliver Wind IV, LLC designating a corridor 150 feet in width, with additional width at structures with guy wires, for the construction, operation, and maintenance of the Oliver Wind IV 345 kV transmission line and associated facilities in Oliver and Mercer Counties, North Dakota, as identified in Exhibit 2, Figure 13.

2. Route Permit No. 243 is issued to Oliver Wind IV, LLC designating a route in Oliver and Mercer Counties, North Dakota, for the construction and operation of an approximately 19.5-mile long 345 kV transmission line. The designated route for this purpose is as identified in Exhibit 2, Figure 13.

3. The Transmission Project Certification Relating to Order Provisions with accompanying Tree and Shrub Mitigation Specifications, filed with the Commission as Exhibit 14, is incorporated by reference and attached to this Order. The Tree and Shrub Mitigation Specifications may be modified upon the mutual agreement of the Commission and Oliver Wind IV. The Commission authorizes a maximum tree and shrub clearance width of 150 feet.

4. If modifications are made to the Transmission Project Corridor, Oliver Wind IV shall complete a Class III Cultural Resource Survey for any previously un-surveyed portions of the designated site affected by Transmission Project-related construction activities, in accordance with SHPO guidance, and shall submit cultural resource finds to SHPO for review, and file a copy of SHPO's response with the Commission prior to beginning construction in said areas.

PUBLIC SERVICE COMMISSION

		
Sheri Haugen-Hoffart Commissioner	Randy Christmann Chair	Julie Fedorchak Commissioner

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

Certificate of Site Compatibility Number 67

This is to certify that the Commission has designated an energy conversion facility site for Oliver Wind IV, LLC, for the construction and operation of a wind energy conversion facility and associated facilities in Oliver 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 Findings of Fact, Conclusions of Law and Order of the Commission in Case No. PU-23-317 dated April 29, 2024, and is subject to the conditions and limitations noted in the order.

Bismarck, North Dakota, April 29, 2024.

ATTEST:

PUBLIC SERVICE COMMISSION



Executive Secretary



Commissioner

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

Certificate of Corridor Compatibility Number 233

This is to certify that the Commission has designated a transmission facility corridor for Oliver Wind IV, LLC, for the construction of approximately 19.5 miles of 345 kV electric transmission line and associated facilities extending from the Oliver Wind IV Energy Center collection substation in Oliver County, North Dakota, to Basin Electric Power Cooperative's Leland Olds Station 345 kV substation in Mercer County, North Dakota.

This certificate is issued in accordance with the Order of the Commission dated April 29, 2024, in Case No. PU-23-318 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, April 29, 2024.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner

PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA

Route Permit Number 243

This is to certify that the Commission has designated a route for Oliver Wind IV, LLC, for the construction of approximately 19.5 miles of 345 kV electric transmission line and associated facilities extending from the Oliver Wind IV Energy Center collection substation in Oliver County, North Dakota, to Basin Electric Power Cooperative's Leland Olds Station 345 kV substation in Mercer County, North Dakota.

This certificate is issued in accordance with the Order of the Commission dated April 29, 2024, in Case No. PU-23-318 and is subject to the conditions and limitations noted in the Order.

Bismarck, North Dakota, April 29, 2024.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Oliver Wind IV, LLC
200 MW Oliver Wind IV Energy Center – Oliver County
Siting Application**

Case No. PU-23-317

**Oliver Wind IV, LLC
345-kV Transmission Line – Oliver & Mercer
Siting Application**

Case No. PU-23-318

Tree and Shrub Mitigation Specifications

Inventory

Prior to cutting or clearing trees or shrubs for construction:

- All trees one-inch or greater in diameter at breast height must be inventoried to record the location, number, and species.
- All shrubs and all coniferous trees of any diameter must be inventoried to record the location, number, and species.

Clearing

The maximum width of tree and shrub removal is 50 feet, unless otherwise approved by the Commission.

Replacement

1. Landowners must be given the option to have trees and shrubs that are removed from their property replaced on their property. The landowner may waive this option in writing. If the landowner waives this option, the company shall plant replacement trees and shrubs in an alternate location in the same region, if practical.
2. Trees and shrubs must be replaced on a minimum two-to-one basis. The company shall develop a Tree and Shrub Mitigation Plan (Plan) in consultation with landowners who are seeking replacement trees and shrubs and in accordance with USDA-NRCS-North Dakota Field Office Technical Guide: Windbreak and Woodland Tree Care and Management. The guidelines outlined in the Technical Guide shall be followed until filing of the Plan summary outlined in number 5 below.
3. The purpose of the company's Tree and Shrub Mitigation Plan is to create sustainable plantings, appropriate for the local soil and growing conditions that will provide long-term benefit to landowners, farmers and ranchers, the community, wildlife and the environment.
4. The Plan, including the proposed number, variety, type, location, and approximate date for plantings, shall be filed with and approved by the Commission.
5. Two years after completion of the plan, the company must file a summary documenting how the plan achieved the purpose outlined in number 3 above. The summary must also report the number of surviving replacement trees and shrubs.
6. The Commission will consider, on a limited basis as conditions warrant, mitigation plans that provide long-term wildlife habitat and conservation benefits but do not involve the replanting of trees and shrubs.



STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

**Oliver Wind IV LLC
200 MW Oliver Wind IV Energy Center – Oliver County
Siting Application**

Case No. PU-23-317

**CERTIFICATION RELATING TO ORDER PROVISIONS
ENERGY CONVERSION FACILITY SITING**

I am Anthony Pedroni, a representative of Oliver Wind IV, LLC ("Company") with authority to bind Company 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 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.
3. 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.
4. 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.
5. 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.
6. 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.

Construction:

7. 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.
8. Company understands and agrees that all cultural resource mitigation plans must be approved by the North Dakota State Historic Preservation Office prior to the start of any fieldwork and construction activity in the affected area.
9. Company understands and agrees that topsoil removal will begin when the Commission's third-party construction inspector is present at the Project site to observe that topsoil is properly removed and kept segregated from subsoil until replacement occurs. Company shall establish the date and time for the Commission's third-party construction inspector's topsoil removal oversight in the preconstruction conference.
10. 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 monthly basis.
11. 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.
12. Company agrees to construct and operate the energy conversion facility in accordance with all applicable safety requirements.
13. Company understands and agrees that it shall bury all underground lines to a depth of at least 48 inches to the top of the lines.
14. Company understands and agrees that topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas, roadways, and locations of associated facilities must be carefully stripped and segregated from the subsoil. Any area on which excavated subsoil will be placed must first be stripped of topsoil. The stripped topsoil must not be stockpiled in natural drainages, and must be protected from water erosion. Care must be taken to protect topsoil from unnecessary compaction by heavy machinery. Unless otherwise approved by the

Commission, topsoil must be removed before topsoil freezes in the late fall/ early winter to the point that frost inhibits proper soil segregation. After backfilling with subsoil is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography. Topsoil must be replaced over areas from which it was stripped only after the subsoil is replaced.

15. 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.
16. 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.
17. 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, and a report of such examination is filed with the Commission.
18. 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 are taken by Company.
19. Company understands and agrees that the Commission has authority to stop Project construction activities in the event of a probable violation of the siting laws, siting rules, or applicable Commission Orders if, in the opinion of the Commission, construction activities are likely to result in irreparable or significant harm.

Restoration and Maintenance:

20. Company agrees that it shall, as soon as practicable upon the completion of the construction of the energy conversion facility, 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.
21. 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.

22. 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.
23. Company will fulfil its obligation for reclamation and maintenance of the approved site continuing throughout the life of the energy conversion facility.
24. Company will repair all fences and gates removed or damaged during all phases of construction and operation of the proposed energy conversion facility.
25. Company will repair or replace all drainage tile broken or damaged as a result of construction and operation of the proposed energy conversion facility.
26. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
27. 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.
28. 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.
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.

Communication with Landowners and PSC:

30. Company agrees to provide the Commission with engineering design drawings showing surveyed structure and collection substation locations prior to construction.
31. Company understands and agrees that it shall advise the Commission as soon as reasonably possible of any extraordinary events which take place at the site of the energy conversion facility, including injuries to any person.
32. Company agrees to report to the Commission, as soon as reasonably possible, the presence in or near the approved site of any critical habitat of threatened or endangered species that Company becomes aware of and which were not previously reported to the Commission.

33. 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 conversion 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 conversion 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.
34. 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.
35. 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.
36. Company understands and agrees that it shall implement a procedure for how complaints concerning the proposed energy conversion facility will be handled by Company

Modification of Energy Conversion Facility or Energy Conversion Site Plan:

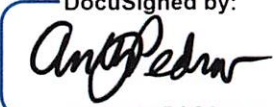
37. Before conducting any construction activities for any modification within the designated site, the Company will file the name and contact information for a key contact person for the purposes of notice and communication during the site modification application and will use the following procedures:
 - A. Before conducting any construction activities for any modification within the designated site, and such **construction activities will not affect any known exclusion or avoidance areas** within the designated site, the Company will file certification and supporting documentation:
 1. Affirming that construction activities will not affect any known exclusion or avoidance areas within the designated site;
 2. Including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying the designated site and site modification(s); and

3. Affirming that Company will comply with the Commission's order, law and rules designating the site.
- B. Before conducting any construction activities for any modification within the designated site, and such construction activities will not affect any known exclusion but **may affect an avoidance area** within the designated site, the Company will file:
1. A specific description of the avoidance area expected to be impacted, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying:
 - a. the designated site and the site modification;
 - b. all exclusion and avoidance areas within the portion of the designated site containing the site modification.
 2. Certification and supporting documentation affirming that construction activities will not affect any known exclusion area.
 3. All field studies performed on the portion of the designated site containing the site modification;
 4. Specific information about any mitigation measures Company will take within the modification area;
 5. Certification that each owner of real property on which the modification is to be located and any applicable governmental entity with an interest in the same modification area do not oppose the modification;
 6. Certification that unless the Commission previously authorized the impact to the same avoidance area, that the utility has good cause and a specific reason to impact the avoidance area and a reasonable alternative does not exist;
 7. Certification that Company will comply with the Commission's order, law and rules designating the site.
38. Company acknowledges and agrees that written authorization from the Commission for impacting the avoidance area is necessary prior to commencement of construction activity.

Dated this 22.00 day of January, 2023.

Oliver Wind IV, LLC

DocuSigned by:

By  F5C968BD9C2148B...

Its Vice President

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Oliver Wind IV, LLC
200 MW Oliver Wind IV Energy Center – Oliver County
Siting Application**

Case No. PU-23-317

**Oliver Wind IV, LLC
345-kV Transmission Line – Oliver & Mercer
Siting Application**

Case No. PU-23-318

Tree and Shrub Mitigation Specifications

Inventory

Prior to cutting or clearing trees or shrubs for construction:

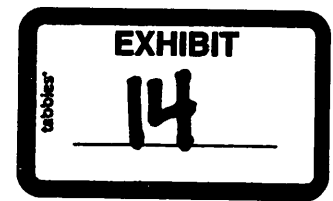
- All trees one-inch or greater in diameter at breast height must be inventoried to record the location, number, and species.
- All shrubs and all coniferous trees of any diameter must be inventoried to record the location, number, and species.

Clearing

The maximum width of tree and shrub removal is 50 feet, unless otherwise approved by the Commission.

Replacement

1. Landowners must be given the option to have trees and shrubs that are removed from their property replaced on their property. The landowner may waive this option in writing. If the landowner waives this option, the company shall plant replacement trees and shrubs in an alternate location in the same region, if practical.
2. Trees and shrubs must be replaced on a minimum two-to-one basis. The company shall develop a Tree and Shrub Mitigation Plan (Plan) in consultation with landowners who are seeking replacement trees and shrubs and in accordance with USDA-NRCS-North Dakota Field Office Technical Guide: Windbreak and Woodland Tree Care and Management. The guidelines outlined in the Technical Guide shall be followed until filing of the Plan summary outlined in number 5 below.
3. The purpose of the company's Tree and Shrub Mitigation Plan is to create sustainable plantings, appropriate for the local soil and growing conditions that will provide long-term benefit to landowners, farmers and ranchers, the community, wildlife and the environment.
4. The Plan, including the proposed number, variety, type, location, and approximate date for plantings, shall be filed with and approved by the Commission.
5. Two years after completion of the plan, the company must file a summary documenting how the plan achieved the purpose outlined in number 3 above. The summary must also report the number of surviving replacement trees and shrubs.
6. The Commission will consider, on a limited basis as conditions warrant, mitigation plans that provide long-term wildlife habitat and conservation benefits but do not involve the replanting of trees and shrubs.



**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Oliver Wind IV LLC
345-kV Transmission Line – Oliver and Mercer
Siting Application**

Case No. PU-23-318

**CERTIFICATION RELATING TO ORDER PROVISIONS
TRANSMISSION FACILITY SITING**

I am Anthony Pedroni, a representative of Oliver Wind IV, LLC ("Company") with authority to bind Company to requirements to be set forth by the Commission in its Order and I certify the following:

1. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission will be 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 comply with the rules and regulations of all other agencies having jurisdiction over any phase of the transmission facility including all city, township, and county zoning regulations.
3. 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 transmission facility that requires said license or permit.
4. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission 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.
5. Company agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order issuing a Certificate of Corridor Compatibility or Route Permit, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.
6. Company understands and agrees that the authorizations granted by any Certificate of Corridor Compatibility or Route Permit issued by the Commission for the

transmission facility are subject to modification by order of the Commission if deemed necessary to protect further the public or the environment.

Construction:

7. 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.
8. 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.
9. Company understands and agrees that topsoil removal will begin when the Commission's third-party construction inspector is present at the Project site to observe that topsoil is properly removed and kept segregated from subsoil until replacement occurs. Company shall establish the date and time for the Commission's third-party construction inspector's topsoil removal oversight in the preconstruction conference.
10. Company agrees to inform the Commission and the Commission's third-party construction inspector of its intent to start construction on the transmission 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 on construction activities on a monthly basis.
11. Company understands and agrees that all topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas where cuts will be made, must be carefully stripped and segregated from the subsoil. Any area on which excavated subsoil will be placed must also be stripped of topsoil. The stripped topsoil must not be stockpiled in natural drainages, and must be protected from water erosion. Care must be taken to protect topsoil from unnecessary compaction by heavy machinery. Unless otherwise approved by the Commission, topsoil must be removed before topsoil freezes in the late fall/ early winter to the point that frost inhibits proper soil segregation. After backfilling with subsoil is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography. Topsoil must be replaced over areas from which it was stripped only after the subsoil is replaced.
12. Company understands and agrees that all buried facility crossings of graded roads must be bored unless the responsible governing agency specifically permits Company to open cut the road.

13. 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.
14. 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 and a report of such examination is filed with the Commission and the State Historical Society.
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 are taken by Company.
16. Company understands and agrees that the Commission has authority to stop Project construction activities in the event of a probable violation of the siting laws, siting rules, or applicable Commission Orders if, in the opinion of the Commission, construction activities are likely to result in irreparable or significant harm.

Restoration and Maintenance:

17. Company understands and agrees that it shall, as soon as practicable upon the completion of the construction of the transmission facility, 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.
18. 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 transmission 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.
19. 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.
20. Company will fulfill its obligation for reclamation and maintenance of the approved transmission facility right-of-way, transmission facility, and associated facilities continuing throughout the life of the transmission facility.
21. Company will repair all fences and gates removed or damaged during all phases of construction and operation of the transmission facility.

22. Company will repair or replace all drainage tile broken or damaged as a result of construction and operation of the transmission facility.
23. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
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 transmission facility.
25. 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.
26. Company understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the transmission facility.

Communication with Landowners and PSC:

27. Company understands and agrees that, prior to beginning construction of the transmission facility at a location, it shall send a letter to each landowner with whom an easement was executed for that location specifying the name and phone number of the company representative who is responsible for receiving and resolving landowner issues for the life of the easement.
28. Company understands and agrees that it will file with the commission the name and phone number of the current company representative who is responsible for receiving and resolving landowner issues for the transmission facility. The company will update this information whenever there is a change to the current company representative for the life of all easements for the transmission facility.
29. Upon request, Company agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.
30. Company understands and agrees that it shall advise the Commission as soon as reasonably possible of any extraordinary events which take place at the site of the transmission facility, including injuries to any person.
31. Company agrees to report to the Commission, as soon as reasonably possible, the presence in the permit area of any critical habitat or threatened or endangered species of which Company becomes aware and which were not previously reported to the Commission.

32. Company understands and agrees that it shall inform the Commission in writing of any plans to modify the transmission facility or of any plans to modify the site plan for the transmission facility.
33. Company agrees to provide the Commission with both an electronic and a paper copy of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission 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 corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission 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.
34. 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.

Route Adjustments Before or During Construction:

35. Company agrees to utilize the following procedures if Company seeks a route adjustment before or during construction of the transmission line.
36. Company will file the name and contact information for a key contact person for the purposes of notice and communication during the adjustment application.
37. **ROUTE ADJUSTMENT WITHIN DESIGNATED CORRIDOR, NO AVOIDANCE AREA AFFECTED:** Before conducting any construction activities for any adjustment to the designated route within the designated corridor, the Company will file:
 - a. Certification and supporting documentation affirming that construction activities will be within the designated corridor, will not affect any known exclusion or avoidance areas within the designated corridor;

- b. Certification and supporting documentation, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying the designated corridor, route and the route adjustment;
- c. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

38. ROUTE ADJUSTMENT WITHIN DESIGNATED CORRIDOR, AVOIDANCE AREA AFFECTED: Before adjusting the route of an electric transmission line within the designated corridor that may affect an avoidance area, and before conducting any construction activities for any adjustment to the designated route within the designated corridor, the Company will file:

- a. A specific description of the avoidance area expected to be impacted, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying:
 - i. the designated corridor, route and the route adjustment;
 - ii. all exclusion and avoidance areas within the portion of the designated corridor containing the route adjustment
- b. Certification and supporting documentation affirming:
 - i. That construction activities will be within the designated corridor
 - ii. That construction activities will not affect any known exclusion area
- c. All field studies performed on the portion of the designated corridor containing the route adjustment;
- d. Specific information about any mitigation measures Company will take within the adjustment area;
- e. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment;
- f. Certification that unless the Commission previously authorized the impact to the same avoidance area, that the utility has good cause and a specific reason to impact the avoidance area and a reasonable alternative does not exist;
- g. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

39. **ROUTE ADJUSTMENT OUTSIDE DESIGNATED CORRIDOR, NO AVOIDANCE AREA AFFECTED:** Before adjusting the route of an electric transmission line outside the designated corridor and not affecting any exclusion and avoidance area, before conducting any construction activities for any adjustment to the designated route outside the designated corridor, the Company will file:
- a. Certification and supporting documentation affirming that construction activities will not affect any known exclusion or avoidance areas,
 - b. Certification and supporting documents stating the length of the proposed route outside of the corridor and a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying the designated corridor, corridor adjustment, designated route and the route adjustment;
 - c. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment; and
 - d. Detailed field studies indicating exclusion and avoidance areas for the proposed adjustment area; and
 - e. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.
40. **ROUTE ADJUSTMENT OUTSIDE DESIGNATED CORRIDOR, AVOIDANCE AREA AFFECTED:** Before adjusting the route of an electric transmission line outside the designated corridor that may affect an avoidance area, and before conducting any construction activities for any adjustment to the designated route outside the designated corridor, the Company will file:
- a. A specific description of the avoidance area expected to be impacted, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying:
 - i. the designated corridor, corridor adjustment, route and the route adjustment;
 - ii. all exclusion and avoidance areas within the adjustment area
 - b. Certification that construction activities will not affect any known exclusion area;
 - c. Certification that the utility has good cause and a specific reason to impact the avoidance area and a reasonable alternative does not exist within the designated corridor and route;
 - d. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment;
 - e. Provide specific information about any mitigation measures Company will take within the adjustment area;
 - f. Detailed field studies indicating exclusion and avoidance areas for the proposed adjustment area; and

g. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.
Company acknowledges and agrees that:

41. When applicable, Company may submit the field studies from the original application for the corridor and route provided they cover the adjustment area.
42. Company acknowledges and agrees that written authorization from the Commission for impacting the avoidance area is necessary prior to commencement of construction activity.

Dated this ^{22.00}____ day of January, 2023.

OLIVER WIND IV, LLC

DocuSigned by:

By F5C968BD9C2148B...
Anthony Pedroni

Its Vice President

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Oliver Wind IV, LLC
200 MW Oliver Wind IV Energy Center – Oliver County
Siting Application**

Case No. PU-23-317

**Oliver Wind IV, LLC
345-kV Transmission Line – Oliver & Mercer
Siting Application**

Case No. PU-23-318

Tree and Shrub Mitigation Specifications

Inventory

Prior to cutting or clearing trees or shrubs for construction:

- All trees one-inch or greater in diameter at breast height must be inventoried to record the location, number, and species.
- All shrubs and all coniferous trees of any diameter must be inventoried to record the location, number, and species.

Clearing

The maximum width of tree and shrub removal is 50 feet, unless otherwise approved by the Commission.

Replacement

1. Landowners must be given the option to have trees and shrubs that are removed from their property replaced on their property. The landowner may waive this option in writing. If the landowner waives this option, the company shall plant replacement trees and shrubs in an alternate location in the same region, if practical.
2. Trees and shrubs must be replaced on a minimum two-to-one basis. The company shall develop a Tree and Shrub Mitigation Plan (Plan) in consultation with landowners who are seeking replacement trees and shrubs and in accordance with USDA-NRCS-North Dakota Field Office Technical Guide: Windbreak and Woodland Tree Care and Management. The guidelines outlined in the Technical Guide shall be followed until filing of the Plan summary outlined in number 5 below.
3. The purpose of the company's Tree and Shrub Mitigation Plan is to create sustainable plantings, appropriate for the local soil and growing conditions that will provide long-term benefit to landowners, farmers and ranchers, the community, wildlife and the environment.
4. The Plan, including the proposed number, variety, type, location, and approximate date for plantings, shall be filed with and approved by the Commission.
5. Two years after completion of the plan, the company must file a summary documenting how the plan achieved the purpose outlined in number 3 above. The summary must also report the number of surviving replacement trees and shrubs.
6. The Commission will consider, on a limited basis as conditions warrant, mitigation plans that provide long-term wildlife habitat and conservation benefits but do not involve the replanting of trees and shrubs.