



FPL Energy

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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

November 11, 2005

South Dakota State Utilities Commission
State Capitol
500 East Capitol
Pierre, SD 57501-5070

SD Public Utilities Commission:

Thank you for providing FPL Energy with the opportunity to comment on the South Dakota Public Utilities Commission's Notice of Public Hearing to Adopt Rules, docketed September 28, 2005, regarding wind energy facilities. We are providing the following comments for your consideration:

1. Page 2: Section 20:10:22:01 (6): The language in the definition referring to "...the area immediately adjacent to ..." should be more specific. As currently drafted, it allows for a broad interpretation, which could open the door for future disputes and possible litigation.

We respectfully request that the Commission consider the following language:

"Wind Energy Site" - the site of the wind energy facilities and the areas directly impacted by the facilities, defined as the area within the fall distance of the highest point of any of the facility's equipment, within the boundaries of the access roads and within the right of way for the local distribution system constructed for the facility up to the point of delivery of the wind energy to the local electrical grid. (Note: We would suggest that 'fall distance' be defined as 'within 2 ½ rotor diameters' for any turbine.)

2. Page 4: Section 20:10:22:05. The second paragraph requires a list of all permits and notifications needed. A procedure to address the consequences of inadvertently omitting a permit or notification, despite a good faith effort by the applicant, should be included.
3. Page 4: Section 20:10:22:12 (3): Suggested edit "... proposed plant, wind project site..."
4. Page 4: Section 20:10:22:12: Second to last line: "affect" should be "effect"
5. Page 5: Section 20:10:22:15: First two paragraphs: Suggest the term "wind energy site" in lieu of "wind energy"
6. Page 7: Section 20:10:22:30: First paragraph: Presumably this section was originally intended to require applicants to explore energy resources that are more environmentally benign. Historically, wind energy has been considered an alternative energy resource. Adding wind energy in this section raises a question of what is the alternative resource to an

alternative resource. Given the obvious environmental benefits of wind energy and the cost and effort required for the studies necessary to meet the requirements of this section, it is suggested that wind energy not be added to this section.

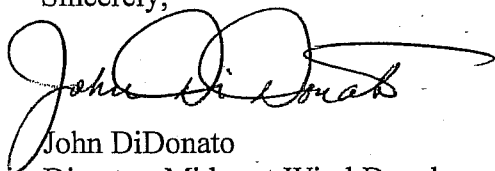
7. Page 8: Section 20:10:22:33:01: The criteria by which applicants will be judged should be more clearly defined. For instance, an applicant with an investment grade credit rating by a nationally recognized rating agency (i.e., S&P, Moody's or Fitch) or with a parent with such a credit rating that provides a corporate guaranty for the obligations of the applicant should be assumed to be adequately capitalized.
8. Page 8: Section 20:10:22:33:02 (4): Establishing large setback distances from property lines could severely limit the development of wind energy. If surrounding land is owned by others, a large setback effectively limits large modern turbine siting to a very limited number of locations on the participating landowner's property. Additionally, in many cases, the limited areas that would be available may not be feasible due to topography.

Large setback requirements also set up adjacent landowners in a "veto" position on most projects. In these cases, the adjacent landowner can leverage that "veto" power into inequitable sharing of wind payments.

Additional study and analysis of this subject is strongly recommended before establishing regulatory setback requirements.

We at FPL Energy remain enthusiastic about the future of wind energy development in South Dakota, and we applaud the Commission's desire to streamline the siting process for such projects. We are encouraged that the Commission has been so open to comments from all parties involved in wind energy development. Thank you for pursuing this matter with due diligence.

Sincerely,

A handwritten signature in black ink, appearing to read "John DiDonato", with a large, sweeping flourish extending to the right.

John DiDonato
Director, Midwest Wind Development