

House Bill 1095

Presented by: Julie Fedorchak, Public Service Commissioner
Public Service Commission

Before: House Energy and Natural Resources Committee
The Honorable Todd Porter, Chairman

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TESTIMONY

Mr. Chairman and committee members, I'm Commissioner Julie Fedorchak, Chair of the Public Service Commission. I am here to testify on HB 1095, which relates to the siting of repowered wind energy conversion facilities and the implementation of light mitigation technology on wind turbines.

Siting of Repowered Facilities

Due to the changes in the threshold necessary to apply for a site certificate for wind farms over the years, a handful of wind facilities in operation today were not permitted through the state siting process. These facilities include:

- NextEra
 - North Dakota Wind Energy Center in LaMoure County (40.5 MW)
 - North Dakota Wind II Energy Center in LaMoure County (21 MW)
 - Oliver Wind I Energy Center in Oliver County (50.6 MW)
 - Oliver Wind II Energy Center in Oliver County (48 MW)
 - Wilton Wind I Energy Center in Burleigh County (49.5 MW)
 - Wilton Wind II Energy Center in Burleigh County (49.5 MW)
- Acciona
 - Tatanka Wind Farm in Dickey/McIntosh County (90 MW in ND, 90 MW in SD)
 - Velve Wind Farm in McHenry County (11.9 MW)
- MDU
 - Cedar Hills, near Rhome in Bowman County (19.5 MW)

The Commission's amendments to 49-22-03 and 49-22-07 provide that an older facility being repowered that was not previously sited must obtain a site certificate. This would also subsequently require a repowered wind farm to be subject to the laws regarding light mitigation technology.

The Commission recognizes that many of these wind farms were constructed prior to the current setbacks and regulations established by the legislature. Because of this, Section 2 provides that the Commission may provide a variance from exclusions and avoidance areas if good cause is shown and if the company complies with local land use, zoning, building rules, regulations, and ordinances.

Light-Mitigation Technology

In the 2017 session, the legislature in HB 1378 established requirements for new and existing wind generation facilities to implement light-mitigation technology. 49-22-16.4(3) provides that a wind farm that received a certificate of site compatibility before June 5, 2016, may be granted a time extension for implementing the light mitigation technology based on technical or economic feasibility concerns. However, the law passed did not expressly provide an extension for newly sited facilities. Furthermore, the law didn't provide the Commission the ability to waive the light-mitigation requirements for either the new or older sited facilities.

In our experience since this law was passed, we have learned that the light mitigation technology currently approved by the FAA, which is the Aircraft Detection Lighting system (ADLS), is not feasible in all locations. For example, the

Ruso Wind farm, which is planned in an area just east of Max, could not receive FAA approval for ADLS because of its proximity to military infrastructure.

Although the Commission did not believe this was intended when the Legislature passed the law, my colleagues determined that, as written, the statute does not allow the Commission to wave requirements for light mitigation technology. Although I disagreed with their reading of the law, I support the clarification this bill provides because it expresses what I believe was the original intent of this legislation.

The amendments in HB 1095 provide that the Commission may grant a waiver or extension of light mitigation technology requirements for new and existing wind generation facilities based upon technical or economic feasibility considerations.

Mr. Chairman, this concludes my testimony. I will stand for your questions.