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Clerk's Office
N.C. Utilities Commission

To: Chief Clerk Gail Mount
The North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699-4325

From: The North Carolina Sustainable Energy Association
P.O. Box 6465
Raleigh, NC 27628

Re: *Letter re: In the Matter of Request for Declaratory Ruling by Atlantic Wind, LLC*
(Docket No. EMP-49, Sub 0)

Honorable Clerk and Commissioners:

On 4 February 2015, Atlantic Wind, LLC (“Atlantic Wind”) filed a Request for Declaratory Ruling in which it requested that the North Carolina Utilities Commission (“Commission”) issue a ruling that clarifies that amended Commission Rule R8-63(e)(3) applies to the certificate of public convenience and necessity (“CPCN”) for the 300MW wind facility secured by Atlantic Wind on 3 May 2011 and renewed on 30 April 2013 (“*Request*”). On 16 February 2015, the Commission issued an *Order Requesting Comments on Application of Commission Rule R8-63(e)(3)*.

I serve as counsel and director of regulatory affairs for the North Carolina Sustainable Energy Association (“NCSEA”). NCSEA was granted intervenor status by the Commission on 9 March 2011. In lieu of formal written comments, NCSEA submits this letter.

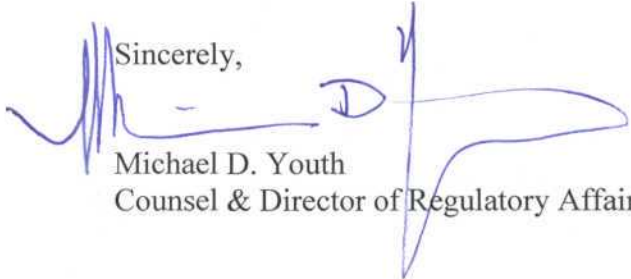
Commission Rule R8-63(e)(3), as amended by the Commission on 4 November 2014 (with an effective date of 21 January 2015), provides that a CPCN “must be renewed if the applicant does not begin construction within *three* years after the date of the Commission order granting the certificate” (emphasis added). Prior to the amendment (and at the time Atlantic Wind received both its CPCN and its renewed CPCN), the rule required renewal every *two* years.

As NCSEA understands Atlantic Wind’s *Request*, the operative effect of granting the requested ruling would be to permit Atlantic Wind to defer seeking renewal of its CPCN from 2015 to 2016. As Atlantic Wind states in the *Request*, granting the requested ruling will not result in prejudice to any party. NCSEA, similarly, is unaware of any prejudice that would be precipitated by granting the requested ruling.

Beyond absence of prejudice, NCSEA believes Atlantic Wind's legal argument is persuasive: Ordering paragraph 1(c) of the 3 May 2011 order granting Atlantic Wind a CPCN provided that the CPCN was "*subject to the conditions of Commission Rule R8-63(e) and (f) and all orders, rules and regulations as are now or may hereafter be lawfully made by the Commission*" (emphasis added). Similarly, the Commission's 30 April 2013 order renewing the CPCN provided in relevant part that that the renewal was "subject to all requirements and conditions included in the [original CPCN] Order[.]" including the conditions set out in Ordering paragraph 1(c) of the 3 May 2011 order. As asserted by Atlantic Wind, it reasonably follows that the Commission's 14 November 2014 order amending Rule R8-63(e)(3), which became effective on 21 January 2015, relates back to the 3 May 2011 order granting Atlantic Wind its CPCN.

Accordingly, NCSEA supports issuance of the ruling requested by Atlantic Wind.

Sincerely,

A handwritten signature in blue ink, consisting of a series of loops and a long horizontal stroke, positioned above the typed name.

Michael D. Youth
Counsel & Director of Regulatory Affairs