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November 7, 2005

State Corporation Commission
P.O. Box 1197
Richmond, VA 23219

RE: Highland New Wind Development, LLC Application for Approval
to Construct, Own & Operate an Electric Generation Facility in
Highland County Pursuant to §§ 56-46.1 and 56-580D of the Code
of Virginia

PUE-2005-00101

Dear Commissioners Christie, Miller and Morrison:

Enclosed is an Application for Highland New Wind Development, LLC ("HNWD") to construct a 39-megawatt wind farm in Highland County, Virginia. With the benefit of (i) qualifying for your "streamlined requirements" for less than 50 megawatt energy projects, (ii) the information available from the federal review of the HNWD project in 2003 in conjunction with HNWD's quest for a USDA Renewable Energy Grant, and (iii) the 2 ½ year Highland County review process, we respectfully request that your expedited process for approval be completed by March 1, 2006.

The HNWD Project.

The HNWD project is unlike most, if not all, prior utility projects processed by the Commission. This project does not in any way impair air or water quality. In fact, no Department of Environmental Quality permit of any kind is required for this project. The project is located in one of the most remote regions of the Commonwealth. Unlike most power plants, particularly hydroelectric and nuclear, decommissioning is easy. Currently, the salvage value of the turbine equipment exceeds the cost to decommission the turbines and return the property back into its original condition.

This project is also different from all but one of the other Appalachian region wind farms. The site locations, both on Tamarack Ridge and Red Oak Knob, have been bald knobs for almost 100 years, so forest fragmentation and timber cutting are not issues. Only a few trees will need to be cut for purposes of road widening of the entrance to Tamarack.

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As a result of a USDA Grant request, this project received an initial review by several Virginia agencies in 2003 so the project itself is not new to Virginia.

In addition to the application and its required attachments, please find enclosed:

- (1) A copy of the staff report from Highland County;
- (2) A copy of the Resolution from the Highland County Board of Supervisors approving the HNWD project.

For over three years, wind farms, and this particular HNWD project have been publicly debated in Highland County. Three informational or public forums were conducted in August 2002, on April 29, 2004 and on May 20, 2004. In addition to the Public Hearing conducted with regard to the Conditional Use Permit, an earlier Public Hearing was conducted to approve a change in the height ordinance, which provided a second forum for additional wind farm discussions and comments from the public. Websites and electronic communication facilitated the widening of the public discussion well beyond Highland County. Supporters and opponents from across Virginia and the Mid Atlantic commented in letters, editorials, e-mails and public appearances at the three forums and two hearings.

Why a Streamlined Process is Important.

The Applicant is spending considerable resources on the environmental studies and litigation brought by the opposition, *Goodall et al. v. Highland County, et al.* There will be no return on that investment until the first turbine is operational. The second reason is that the federal production tax credit expires at the end of 2007. The wind turbine market has exploded in this country due to the extension of the credit as part of the recently passed Energy Bill, but also due to the dramatic growth of the wind energy market throughout the world.

When this permit is granted, despite the possibility of an appeal in the pending litigation, the Applicant intends to order the turbines. To obtain 2007 turbines (due to market demand, 2006 turbines are not available) for the projected 10-month construction project for February 2007 delivery, the current market requires that the Applicant place the turbine order no later than March 2006.

To facilitate an expedited approval process, we have submitted this Application without the completion of several environmental studies. Those studies are further described in the attached Application.

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Streamlined Process of 20 VAC 5-302-25.

The intent of this 2002 regulation was to streamline the approval process for small, under 50 megawatt, electric generating utility projects. The required information is lessened resulting in a shorter application. Presumably the period involved for the approval process is likewise shortened. The only prior submission pursuant to the 2002 regulation was a 15-page application, and the permit process was completed within six months with no opposition and no Public Hearing.

Public Hearing.

In the pre-application meeting jointly conducted by the Department of Environmental Quality and the Commission, and attended by over 20 agency representatives on September 12, 2005, the Applicant was advised that if there were public opposition, even in a streamlined process, you would likely conduct a Public Hearing. There has been and will continue to be public opposition.

The Applicant respectfully suggests that in lieu of a public hearing, you accept written, scientific reports and commentary limited to the topic of the impact of the HNWD project on birds, bats and endangered species balanced of course against the positive impact of the project as a whole. The studies, the study protocol and the results are best debated by the experts that specialize in the field.

The Applicant believes a public comment opportunity is appropriate but only as to one topic—the pending bird, bat and endangered species studies and impacts. You will see after reviewing the Highland County staff report and resolution that the locality considered fully all aspects of the HNWD project except for attempting, usually unsuccessfully, to defer comment and debate about birds, bats and endangered species to your process. The HNWD project has been fully vetted in the two public hearings and three public forums conducted in Highland County, and in news and commentary almost every week for over two years in the local newspaper.

If you nevertheless decide to conduct a Public Hearing in Highland County, I am certain you will coordinate safety issues with the County. This is an emotionally charged issue for a few people, particularly two of the four permanent residents who live nearby to the project.¹ Finally, we respectfully request such a hearing be scheduled in January after all of our studies are complete so that a final decision can be issued in February.

¹ The Roanoke Times quotes these residents as follows. “*If this were West Virginia, McBride would be afraid to come up here,*” said [Tom] Brody referring to some rural people’s passion for defending their land rights.” and “*If this thing passes, I would like to punch his eyes out,*” [Pen] Goodall said, referring to Board Chairman, Jerry Rexrode, who has taken the brunt of criticism from project opponents. “*If I had a baseball bat, I would crack him in the head.*”

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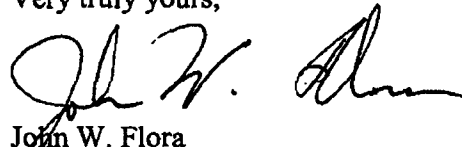
Conclusion.

Although there are minimal adverse environmental impacts of this project, the most significant environmental concern is the effect of wind turbines on ridge tops to birds and bats. In recognition of that concern, the Applicant has engaged several experts to conduct studies, all as set forth in more detail in the Application. Our goal and expectation is to have those reports in your hands in December, along with other similar studies from other similarly situated projects on the Allegheny Front. We are hopeful that you will be able to complete your review process as to all other issues and concerns by that time, so during January the sole issue for review, public input and discussion will be the bird and bat concerns and mitigation, if any, that may be required as a result of such study.

There is growing international and national demand and support for renewable energy projects, and specifically wind-generated power. Assuming the Commonwealth of Virginia wants to participate in this expanding market, the HNWD project is undoubtedly one of the very best sites in the entire Commonwealth for the Commonwealth's first project given its remote location, its Class V wind, its access by a major state highway and its access to a major transmission line.

We look forward to working with you in processing this Application on an expedited basis.

Very truly yours,



John W. Flora
Counsel for Applicant

cc: Ms. Ellie Irons, DEQ
Henry T. McBride, Jr., Manager,
Highland New Wind Development, LLC

Enclosures
JWF/mga/57413