

State of New Hampshire
Site Evaluation Committee

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Robert R. Scott
Vice-Chair

October 4, 2019

VIA E-MAIL AND FIRST-CLASS MAIL

Richard Block
63 Loveren Mill Rd.
Antrim, NH 03440

Janice D. Longgood
156 Salmon Brook Road
Antrim, NH 03440

Annie Law and Robert Cleland
43 Farmstead Road
Antrim, NH 03440

Shelley Nelkens

**Re: Site Evaluation Committee Docket No. 2015-02 – Antrim Wind Energy, LLC
Response to Request for Enforcement and Penalties**

Dear Meses. Nelkens, Longgood, and Law; and Messrs. Block and Cleland:

On March 17, 2017, the Site Evaluation Committee (Committee) issued an Order and Certificate of Site and Facility with Conditions (Certificate) to Antrim Wind Energy, LLC (AWE) to site, construct and operate 9 Siemens direct drive wind turbines. On September 17, 2019, the Committee received the subject correspondence signed by Richard Block, Shelley Nelkens, Janice D. Longgood, Annie Law, and Robert Cleland (Intervenors). The Intervenors state that AWE violated the Certificate by failing to ensure operation of temporary lights and that the filing of a Notice to Airmen (NOTAM) did not cure the violation. The Intervenors rely on a condition in the Certificate requiring AWE to comply with all conditions of Determinations of No Hazard to Air Navigation (Determinations) issued by the Federal Aviation Administration (FAA) and incorporated as Appendix IV to the Certificate. The Intervenors assert that the Determinations prohibit the use of a NOTAM in place of the temporary lighting “until the entire project has been completed,” and request that the Committee enforce the Certificate and “appropriately penalize” AWE for failing to comply with the Certificate.

Background

On September 10, 2019, the Administrator received a call from a member of the public stating that the previous evening she raised a concern at a Town of Antrim Selectboard meeting that the temporary lighting installed on the Antrim Wind Energy Project (AWE) was not operating. Shortly after receiving the complaint, the Administrator sent an e-mail to representatives of AWE requesting information on the status of the temporary lighting. On September 11, 2019, the Committee received an e-mail from TransAlta Corporation, parent company of AWE, advising the Committee of the steps that AWE was undertaking to investigate and respond to the complaint. Specifically, AWE confirmed that as of September 9, 2019, four of the nine temporary lights were not working and that NOTAMs were filed with the FAA notifying of an “outage of 30 minutes or greater,” and that a contractor would be on-site to inspect and assess the temporary lighting on September 16. On September 17, the Committee received the Intervenor’s correspondence referenced above.

On September 24, 2019, AWE filed a response to the Intervenor’s submittal, asserting that the temporary lighting was installed, but was not operational, when the site inspection was conducted on September 9; that NOTAMs were filed with the FAA; and that a plan was put in place to have the lights inspected/repaired/replaced as appropriate. *See* Attachment A. The correspondence outlined a series of steps that AWE was taking to replace the malfunctioning temporary lights with new temporary lights and a plan to install and commission permanent lights that will be part of the Aircraft Detection Lighting System (ADLS). AWE noted that turbines 2, 5, and 8, are not required to have permanent lighting pursuant to the Determinations. AWE stated that it recognizes and is aware that a NOTAM cannot be used in place of temporary lighting during the construction period. AWE also represented that it will conduct nightly inspections and will continue this practice until the ADLS is installed and commissioned.

On October 2, AWE sent a status update to the Committee outlining the steps that it had taken since September 24, and among other things, noted that permanent lights have been installed and are all now operational on turbines 1, 3, 4, 6, 7, and 9. *See* Attachment B. AWE also reiterated that it will continue nightly inspections of the aerial obstruction lighting until such time as the ADLS is installed and commissioned.

Analysis

On September 25, the Administrator spoke with Bill Kieffer of the FAA to discuss the complaint, AWE’s response, and the federal requirements. The Certificate, at page 4 and Appendix IV, requires AWE to comply with the Determinations issued by the FAA. The Determinations state:

In order to ensure proper conspicuity of turbines at night during construction, all turbines should be lit with temporary lighting once they reach a height of 200 feet or greater until such time the permanent lighting configuration is turned on. . . The use of a NOTAM (D) to not light turbines within a project until the entire project has been completed is prohibited. . . .

Any failure or malfunction that lasts more than thirty (30) minutes and affects a top light or flashing obstruction light, regardless of its position, should be reported immediately to (877) 487-6867 so a Notice to Airmen (NOTAM) can be issued. As soon as the normal operation is restored, notify the same number.

AWE filed the NOTAMs as required by the Determinations and did not rely on NOTAMs instead of installing the required temporary lighting during construction of the Project. Pursuant to the terms and conditions of the Certificate, AWE installed the required temporary lights, promptly contacted the FAA, and filed NOTAMs once it discovered that some of the temporary lights were not functioning properly. The temporary lights have been replaced with permanent lights on turbines 1, 3, 4, 6, 7, and 9. In accordance with Appendix IV, turbines 2, 5, and 8, are not required to have permanent lighting. AWE acted appropriately and in accordance with the terms and conditions of the Certificate in responding to the complaint regarding the temporary lighting malfunction. Accordingly, no enforcement action is recommended or required.

AWE shall continue nightly inspections of the aerial obstruction lighting until such time as the ADLS is installed, commissioned, and operational.

Sincerely,



Pamela G. Monroe
Administrator

Ec: Donna Hanson, Antrim Town Administrator
Justin Richardson, Upton & Hatfield
Jeff Nelson, TransAlta
Jean-Francois Latour, TransAlta



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September 24, 2019

New Hampshire Site Evaluation Committee
Attention: Pamela G. Monroe, Administrator
21 South Fruit St., Suite #10
Concord, NH 03301

Re: Antrim Wind Energy LLC (AWE) – Status update on the aerial obstruction lightning

Dear Ms. Monroe:

This status update follows up on our September 11, 2019 letter. As you know, on Monday, September 9, 2019, AWE completed a site inspection and reported four (4) non-operational aerial obstruction lights to the FAA under a Notices to Airmen (NOTAM¹) for turbines 3, 4, 5 and 6. Following this inspection, a plan was put in place to have the lights inspected/repaired/replaced as appropriate.

On Monday, September 16th AWE's contractor was on site to inspect the temporary lights that were not functioning, and which had been previously reported to the FAA under a NOTAM. The contractor inspected and tested the lights, which were working at the time of the inspection. However, on the evening of Monday, September 16th AWE inspected the lights again after dusk and the four lights, which were originally in question, were not working as well as one additional light (turbines 3, 4, 5, 6 and 8). AWE promptly contacted the FAA to file the appropriate NOTAM.

On Thursday, September 19th the temporary light for turbine 4 was replaced with a new temporary light, which is currently operational. On Friday, September 20th the permanent light for turbine 6 was commissioned, which will be part of the Aircraft Detection Lighting System ("ADSL"). The permanent light for turbine 3 will be commissioned by Friday, September 27th. The temporary lights for turbines 5 and 8, however, are not operating properly, although NOTAMs have been

¹ A NOTAM is a FAA approved method to communicate a lighting outage of more than 30 minutes. AWE recognizes and is aware that a NOTAM cannot be used instead of temporary lightning. At no time was a NOTAM requested by AWE or issued by the FAA to avoid utilizing temporary lighting during the construction period; temporary lights were installed as described above. However, in the case of outages of the temporary or permanent lights, the FAA Marking & Lighting Conditions for AWE clearly requires that any light outages shall be reported to the FAA: "Any failure or malfunction that lasts more than thirty (30) minutes and affects a top light or flashing obstruction light, regardless of its position, should be reported immediately to (877) 487-6867 so a Notice to Airmen (NOTAM) can be issued. As soon as the normal operation is restored, notify the same number." Therefore, the use of the NOTAM for the current situation is not in violation of any requirements of the Certificate and is a requirement of the FAA to ensure public safety.



filed with the FAA as required. To resolve this issue, AWE has addressed permanent lighting as discussed below.

The permanent lights for turbines 6 and 7 are currently operating and the permanent lights for turbines 1, 3, 4 and 9 will be commissioned by Friday, September 27th. Once the permanent lights for turbines 1, 3, 4 and 9 are confirmed to be operating, all remaining temporary lighting will be removed from the respective turbine. Pursuant to the Determinations of No Hazard issued to AWE turbines 2, 5 and 8 are not required by the FAA to have permanent lighting.

To the extent necessary, AWE will diligently notify the FAA, as required, for any applicable NOTAM. In addition, AWE will continue completing nightly inspections of the aerial obstruction lighting until the time when the ADLS is installed and commissioned later this year (before COD) and the Town of Antrim will be notified once we reach that milestone. At that time, the permanent lights will operate when aircraft are detected, and the system will be monitored 24/7 by TransAlta's Wind Control Center. In the meantime, the aerial obstruction lights will remain on all night independently of the presence or absence of nearby aerial traffic and will operate in a synchronized manner as required by the FAA Determination of No Hazard.

If you wish to proceed with a visit to assess the situation at the site, our team remains available to coordinate such visit at your convenience.

We wish to reiterate that TransAlta is committed to the safe operation of all of its facilities including AWE.

I would be happy to discuss further or answer any other questions you have.

Yours truly,

TRANSALTA CORPORATION

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October 2, 2019

New Hampshire Site Evaluation Committee
Attention: Pamela G. Monroe, Administrator
21 South Fruit St., Suite #10
Concord, NH 03301

Re: Antrim Wind Energy LLC (AWE) – Status update on the aerial obstruction lighting

Dear Ms. Monroe:

All permanent lights at AWE are now operational and the temporary lights are no longer required. As committed to in our September 24, 2019 update, turbines 6 and 7 now have permanent lights installed and are operational. On September 24th, the permanent lights on turbines 4 and 9 were placed into service. During the next nightly inspection, it was confirmed that the lights on turbines 4 and 9 were operating. On September 25th, the permanent lights on turbines 1 and 3 were placed into service and their operation was confirmed during the next nightly inspection.

During the inspection on the night of the 25th, it was determined, however, that the light on turbine 9 was not working properly. A NOTAM was promptly filed with the FAA for turbine 9. Upon further investigation, it was determined that the light on turbine 9 was defective. The delivery of a replacement light was expedited and installed on October 1st. The permanent light on turbine 9 is now fully operational. Pursuant to the Determinations of No Hazard issued to AWE, turbines 2, 5 and 8 are not required by the FAA to have permanent lighting.

AWE will continue nightly inspections of the aerial obstruction lighting until the time when the Aircraft Detection Lighting System (ADLS) is installed and commissioned later this year (before commercial operation). The Town of Antrim will be notified when the ADLS is commissioned and operating. At that time, the permanent lights will operate only when aircraft are detected by the ADLS, and this system will be monitored 24/7 by TransAlta's Wind Control Center. In the meantime, the aerial obstruction lights currently on the turbines will remain on all night independently of the presence or absence of nearby aerial traffic and will operate in a synchronized manner as required by the FAA Determination of No Hazard.

We wish to reiterate that TransAlta is committed to the safe operation of all of its facilities including AWE. If you wish to visit the site to assess the situation, our team remains available to coordinate such visit at your convenience. I would be happy to discuss further or answer any other questions you have.

Yours truly,

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