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January 21, 2004

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Ms. Sandra Squire
Executive Secretary
WV Public Service Commission
PO Box 812
201 Brooks Street
Charleston, WV 25323-0812

Dear Ms. Squire:

Please accept these additional comments for the public record regarding the NEDPower Mount Storm LLC certificate to authorize construction of a wind power facility in Grant County.

Wind energy consumption was .1% of United States energy consumption in 2001, the latest year for which data is available, according to the United States Department of Energy. Even by optimistic standards the most that percentage could increase would be to 5% in 2020. It is my concern that, even if West Virginia were to provide a significant portion of that energy, the State and its people - let along the Nation - would derive little benefit.

Companies such as NEDPower assemble the financing for wind farms and construct them. They then sell the projects to large power companies (just as Atlantic Renewable Energy sold the Mountaineer Wind Energy Center to Florida Power and Light) and move on to the next deal, leaving West Virginia with hundreds of wind mills marring one of the most pristine wilderness areas in the country. What West Virginia receives in return is scant.

Tax revenues from wind farms are greatly reduced compared to that paid by other property owners and businesses. For example, property taxes on the turbines and towers are based on their salvage value, which is 5% of the original cost; comparatively, property taxes on land are based on 90% to 110% of market value. Wind farms also pay a greatly reduced business and occupation (B&O) tax. The B&O tax is calculated based upon the taxable generating capacity which, for wind farms, equals 5% of the official capability of the wind farm. Other new electric generating units pay B&O tax based on 40% of official

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capability. In addition to reduced tax revenue, only about 5 permanent jobs per wind farm will be generated. This is hardly fair.

Not only are we sacrificing the beauty of our landscape, but our wildlife as well. As you are aware, the United States Fish and Wildlife Service (Service) has expressed concern about the suitability of the Allegheny Front for wind farms due to its use by migratory birds and raptors as well as bats. I understand that during the period of August 18-20, 2003, the carcasses of over 200 bats from 5 species were found at the Backbone Mountain Wind Farm and that about 27 birds and 16 bats of various species were killed May 23-24, 2003, at the same wind farm. These events underscore the fact that this area has serious drawbacks as a suitable site for wind farms.

In addition to environmental concerns, I am advised that the bird kills could have serious legal implications flowing from the strict liability provision of the Migratory Bird Treaty Act, which carries heavy fines per bird killed. Could the takings of birds and bats, of which there are predictably many, result in liability to both the developer and the permitting authority? Additionally, could there be liability to the manufacturer of the wind turbines as well?

How many birds would fall victim to the proposed NEDPower wind farm is an unknown. However, it is reasonable to expect a larger number than those killed at Backbone given the increased size of the NEDPower project and the area's designation as "a major flyway for nocturnal migrating songbirds" by the Allegheny Front Migration Observatory. The Service, in a December 12, 2002, letter to NEDPower Mount Storm LLC, emphasized the need for more detailed studies on the risk to avian migration due to the inadequacies of the few studies which have been completed, such as not including nocturnal migration and conducting the study for only part of the annual migration time period. In fact, the Service stated that, "We believe the rigor and scope of environmental studies needed at this site are greater than previous wind energy projects in Tucker County because a higher risk to avian species is presumed." In accordance with that statement, a study of year-round avian use of the area was recommended.

Further, the Service has recently published in the *Federal Register* interim voluntary guidelines for wind turbines which contain site evaluation checklists and state that pre-

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development evaluations should be conducted by a team that includes Federal and/or State agency wildlife professionals with no vested interest (i.e., monetary or personal business gain). Any evaluations not conducted in such a manner will not be considered valid. The guidelines further recommend that developers avoid locating turbines in known local bird migration pathways or in areas where birds are highly concentrated, unless mortality risk is low. Areas with a high incidence of fog and poor visibility are also to be avoided. Given that these conditions exist in the proposed site, does NEDPower intend to comply with these guidelines? If not, would the Commission revoke its order granting the certificate of convenience based upon failure to perform the contingencies? Or, at a minimum, would the Commission modify its certificate of convenience to demand that NEDPower comply with the Service guidelines?

More directly, the Commission's authorization certificate outlined various studies that NEDPower was to perform prior to construction. What affect do the outcomes of these studies have on the certificate that has been issued? Has NEDPower reported results, preliminary or otherwise, to the Commission? If so, has the Commission made a decision to allow the project to go forward based on the outcomes of those studies?

The aforementioned long-term economic disadvantages of wind farm development continues the historic exploitation of West Virginia's resources by distant capital, which is not a flattering nor beneficial model to perpetuate. The avian/bat kills and Service guidelines are additional good reasons to give pause and take a more studied look at how these massive wind farms will adversely affect West Virginia. They provide an additional rationale to reconsider the granting of these certificates of convenience to insure that the best interests of West Virginia, its citizens and our environment are uppermost in our minds as we consider projects which impact our natural resources.

Thank you for your consideration of my comments. I look forward to your response.

Most sincerely,



Alan B. Mollohan

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