

FILED

October 6, 2017

INDIANA UTILITY

REGULATORY COMMISSION

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION BY JORDAN)
CREEK WIND FARM, LLC FOR CERTAIN)
DETERMINATIONS BY THE COMMISSION WITH)
RESPECT TO ITS JURISDICTION OVER) CAUSE NO. 44978
PETITIONER'S ACTIVITIES AS A GENERATOR OF)
ELECTRIC POWER)

OUCC PREFILED TESTIMONY

OF

LAUREN M. AGUILAR – PUBLIC'S EXHIBIT NO. 1

ON BEHALF OF THE

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

OCTOBER 6, 2017

Respectfully Submitted,

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR




Jesse James, Atty. No. 29971-53
Deputy Consumer Counselor

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing *Office of Utility Consumer Counselor* *Prefiled Testimony of Lauren M. Aguilar* has been served upon the following counsel of record in the captioned proceeding by electronic service on October 6, 2017.

Randolph L. Seger
Michael T. Griffiths
BINGHAM GREENEBAUM DOLL LLP
2700 Market Tower
10 West Market Street
Indianapolis, Indiana 46204
Email: MGriffiths@bgdlegal.com
RSeger@bgdlegal.com



Jesse James
Deputy Consumer Counselor

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR
115 West Washington Street
Suite 1500 South
Indianapolis, IN 46204
infomgt@oucc.in.gov
317/232-2494 – Phone
317/232-5923 – Facsimile

**DIRECT TESTIMONY OF LAUREN M. AGUILAR
CAUSE NO. 44978
JORDAN CREEK WIND FARM, LLC**

I. INTRODUCTION

1 **Q: Please state your name and business address.**

2 **A:** My name is Lauren M. Aguilar, and my business address is 115 W. Washington
3 St., Suite 1500 South, Indianapolis, IN, 46204.

4 **Q: By whom are you employed and in what capacity?**

5 **A:** I am employed as a Utility Analyst in the Energy Resources Division for the
6 Indiana Office of Utility Consumer Counselor ("OUCC"). A summary of my
7 qualifications can be found in Appendix A.

8 **Q: What have you done to evaluate issues presented in this Cause?**

9 **A:** I read and reviewed all materials presented in this docket, including the Petition
10 initiating this proceeding, Petitioner's pre-filed verified direct testimony (and
11 exhibits), and discovery requests and responses. To better understand wind farm
12 energy development cases presented before the Indiana Utility Regulatory
13 Commission ("IURC" or "Commission"), I reviewed Commission orders in a
14 number of similar wind-produced energy proceedings.¹ For potential impacts to
15 endangered species, land use and human health and the environment, I read

¹ IURC Cause No. 43068 addressed the declination of jurisdiction for the Benton County Wind Farm project and was decided in a Final Order dated December 6, 2006. IURC Cause No. 43338 addressed the declination of jurisdiction for the Fowler Ridge Wind Farm project and was decided in a Final Order dated November 20, 2007. IURC Cause No. 43602 addressed the declination of jurisdiction for the Meadow Lake Wind Farm LLC project, Phase I, and was decided in a Final Order dated February 18, 2009. IURC Cause No. 44044 addressed the declination of jurisdiction for the Wildcat Wind Farm I project and was decided in a Final Order dated September 14, 2011.

1 applicable state and federal laws and regulations, including relevant agency
2 guidance information.² I read the Benton County and Warren County
3 requirements and their respective ordinances related to wind energy
4 development.³ Finally, I read the State Utility Forecasting Group's *Indiana*
5 *Electricity Projections: The 2015 Forecast*.

6 **Q: What is the purpose of your testimony in this proceeding?**

7 **A:** The purpose of my testimony is to present the OUCC's position on the requested
8 relief in this Cause. I review and analyze potential issues associated with the
9 construction, ownership, and operation of the proposed wind-generated power
10 project presented by Petitioner Jordan Creek Wind Farm, LLC ("Jordan Creek
11 Wind Farm" or "Petitioner").

12 First, I summarize the requested relief and the Commission's jurisdiction
13 over Petitioner. Next, I discuss public interest matters that may affect the relief
14 requested. These include potential endangered species impacts, land use and
15 human health and the environment issues associated with the construction,
16 ownership, operation of the wind farm facility, and Petitioner's use of public
17 rights-of-way. I then discuss recommended reporting requirements. Lastly, I
18 present the OUCC's recommendation the Commission approve Petitioner's

² Clean Water Act – focusing on the National pollutant Discharge elimination system "NPDES" 33 U.S.C 1342, enforced by IDEM under 327 IAC 15-5 explained at <http://www.in.gov/idem/stormwater/2331.htm>; IC 13-18-22 concerning isolated wetlands and IDEM's compliance and enforcement explained at <http://www.in.gov/idem/wetlands/2343.htm>; IC 14-28-3 concerning floodplain and floor way management, enforced by IDNR explained at: <http://www.in.gov/dnr/water/2455.htm>.

³ <http://www.bentoncounty.in.gov/files/g/Zoning%20Code.version%20July%201.2008.pdf> and <http://www.warrencounty.in.gov/files/29/WC%20Wind%20Ordinance.pdf>

1 requested relief to limit Commission jurisdiction subject to specific reporting
2 requirements as outlined in my testimony.

II. PETITIONER'S REQUEST FOR DECLINATION OF JURISDICTION

3 **Q: What does Petitioner request from the Commission in this proceeding?**

4 **A:** In its Petition initiating this Cause, Jordan Creek Wind Farm requests the
5 Commission enter an order, pursuant to IC 8-1-2.5-5, declining to exercise its
6 jurisdiction over Petitioner's construction, ownership, and operation of a proposed
7 electric power generating facility, including a transmission line, in Benton and
8 Warren Counties. Under IC 8-1-2.5-5, the Commission may decline jurisdiction if
9 Petitioner is an "energy utility" and if such declination of jurisdiction serves
10 public interest.

11 **Q: Is Petitioner an "energy utility"?**

12 **A:** Yes. Based on the information presented in this Cause and my reading of relevant
13 statute and previous Commission decisions, yes it is. IC 8-1-2.5-2 defines "energy
14 utility," in part, as a public utility within the meaning of IC 8-1-2-1. Both the
15 Petition initiating this Cause and Petitioner's Exhibit 1, the Verified Direct
16 Testimony of Zachary Melda, describe Petitioner's intent to develop, own, and
17 operate a power generating facility in the State. Accordingly, Jordan Creek Wind
18 Farm could be considered a "public utility" under the IC 8-1-2-1 definition.⁴ This
19 determination means Petitioner is an "energy utility" under IC 8-1-2.5-2.

⁴ By way of example, in Cause No. 44044 (Wildcat Wind Farm I), the Commission determined a business engaged in the development of wind farms which generate electricity and sell electricity directly to public utilities is itself a public utility.

1 **Q: May the Commission enter an order declining to exercise jurisdiction over**
2 **Petitioner?**

3 **A:** Yes. Under IC 8-1-2.5-5, “on the request of an energy utility ... the commission
4 may enter an order, after notice and hearing, that the public interest requires the
5 commission to commence an orderly process to decline to exercise, in whole or in
6 part, its jurisdiction over either the energy utility....” Absent a proceeding under
7 IC 8-1-2.5-5, Petitioner’s status as a public utility could trigger other regulatory
8 obligations (such as needing a Certificate of Public Convenience and Necessity
9 per IC 8-1-8.5 et seq.). The immediate proceeding is a request for such relief and
10 for the Commission to determine public interest warrants it decline jurisdiction
11 (per 8-1-2.5-5(b)).

III. ENDANGERED SPECIES, LAND USE, HUMAN HEALTH AND ENVIRONMENTAL ISSUES

12 **Q: Are there any endangered species affected by the Jordan Creek Wind Farm?**

13 **A:** Yes. The federal Endangered Species Act of 1973 (“ESA”) provides for the
14 conservation of species that are endangered or threatened throughout all or a
15 significant portion of their range, and the conservation of the ecosystems on
16 which they depend. To be protected by the ESA a species must first be listed as
17 endangered or threatened under 50 CFR 17.11 (for animals) and 50 CFR 17.12
18 (for plants). Enforcement of and compliance with the ESA is handled by Federal
19 United States Fish and Wildlife Services (“USFWS”). In Indiana there are
20 twenty-seven (27) species listed under the ESA.⁵ There are two (2) listed

⁵ <https://ecos.fws.gov/ecp0/reports/species-listed-by-state-report?state=IN&status=listed>

1 endangered or threatened species within the project site, Benton and Warren
2 County, Indiana the, Indiana Bat and the Northern Long Ear bat.⁶ The state of
3 Indiana also maintains a list of endangered species for Benton and Warren
4 Counties.⁷

5 **Q: Has Petitioner acknowledged the possible affects to federal and state listed**
6 **endangered species?**

7 **A:** Yes. Jordan Creek Wind Farm confirms the potential presence of some federal
8 and state listed endangered species in Jordan Creeks Wind Farm's site evaluation,
9 included as Petitioner's Attachment ZM-4 (Jordan Creek Site Characterization
10 Study).

11 **Q: Does the presence of federal and state endangered species prohibit the**
12 **development of Petitioner's wind farm?**

13 **A:** No. Petitioner may work with the USFWS to ensure compliance with the ESA,
14 which may include receiving an incidental take permit under Section 10 of the
15 ESA.⁸ Jordan Creek Wind Farm has shown willingness to work with the USFWS
16 in Petitioner's Exhibit 1, the Verified Direct Testimony of Zachary Melda.⁹

⁶ <https://ecos.fws.gov/ecp0/reports/species-by-current-range-county?fips=18007> and
<https://ecos.fws.gov/ecp0/reports/species-by-current-range-county?fips=18171>

⁷ http://www.in.gov/dnr/naturepreserve/files/np_benton.pdf and
http://www.in.gov/dnr/naturepreserve/files/np_warren.pdf

⁸ <https://www.fws.gov/midwest/endangered/permits/hcp/index.html>

⁹ At 11, Question and Answer 26.

1 **Q: Is the OUCC aware of concerns regarding the potential abandonment of**
2 **wind turbine structures if a wind farm operator becomes unable to continue**
3 **operations or remain in business?**

4 **A:** Yes. Some critics of utility-scale wind energy generation facilities have alleged
5 wind turbine towers and generation units could be left to deteriorate and
6 eventually collapse should the operator cease operations for any reason.

7 **Q: Do you view potential abandonment of wind turbine structures to be an issue**
8 **with Jordan Creek Wind Farm's project?**

9 **A:** No. Petitioner has developed Decommissioning Plans as required by both Benton
10 and Warren Counties. Most importantly, these Decommission Plans require
11 Jordan Creek Wind Farm to provide a performance or surety bond to cover the
12 cost of removing any structures in the case of abandonment. Jordan Creek Wind
13 Farm has received approval for their decommission plans from both Benton and
14 Warren Counties.¹⁰

15 **Q: Is the OUCC aware of health concerns for wind farms including "shadow**
16 **flicker" and exposure to infrasound?**

17 **A:** Yes. Some popular literature relays stories of individuals concerned about or
18 claiming to be affected by a "shadow flicker." This effect has been described as
19 resulting from wind turbines obstructing sunlight as the blades turn and by
20 infrasound generated by wind turbines.¹¹ Others have complained about headaches
21 and other effects from the whooshing and thumping sounds of the turbines.¹²

22 **Q: Should concerns about "shadow flicker" and exposure to infrasound prohibit**
23 **the project?**

¹⁰ Petitioner's Exhibit 1- Verified Direct Testimony of Zachary Melda page 9, Question 23, and Petitioner's Response to OUCC DR 1 Question and Answer 1 presented as OUCC Attachment LMA-1.

¹¹ Contentious wind farm seeks zoning nod, Lafayette Journal & Courier, November 2, 2016; Wind farm foes look for ways to keep them from their neighborhoods, Indianapolis Business Journal, July 20, 2016.

¹² <http://abcnews.go.com/Business/story?id=6175772>

1 **A:** No. Scientific evidence establishes a "shadow flicker" can only manifest itself in
2 very infrequent circumstances under a specific set of geographic and
3 environmental conditions (e.g., no clouds or fog, wind blowing, sun at perfect
4 angle relative to house).¹³ Further, evidence suggests a "shadow flicker" cannot
5 lead to epileptic seizures because turbine blades cannot turn quickly enough to
6 achieve the requisite frequency.¹⁴ Additionally, scientific literature suggests any
7 reported negative impacts from infrasound are primarily a function of attitude and
8 preconceived notions of wind power.¹⁵

9 **Q:** **What other potential environmental impacts do you think could occur with**
10 **this project?**

11 **A:** Construction and land-disturbing projects like the Jordan Creek Wind Farm may:
12 1. Discharge pollutants into water bodies through construction storm water
13 runoff;
14 2. Disrupt federal and state protected wetlands or isolated wetlands if located
15 within the project area; and
16 3. Disrupt flood ways which protect lives and property in the event of floods.

¹³ Update of UK Shadow Flicker Evidence Base, UK Department of Energy & Climate Change, March 16, 2011; An Introduction to Shadow Flicker and its Analysis, New England Wind Energy Education Project Webinar #5, February 10, 2011.

¹⁴ Update of UK Shadow Flicker Evidence Base, UK Department of Energy & Climate Change, March 16, 2011; An Introduction to Shadow Flicker and its Analysis, New England Wind Energy Education Project Webinar #5, February 10, 2011.

¹⁵ The impact of psychological factors on self-reported sleep disturbance among people living in the vicinity of wind turbines, Environmental Research 148 pp.401-410, July 2016. Health effects and wind turbines: A review of the literature, Environmental Health 10:78, 2011; The effect of infrasound and negative expectations to adverse pathological symptoms from wind farms, Journal of Low Frequency, Noise, Vibration and Active Control 35(1) pp.77-90, 2016.

1 **Q: Has Jordan Creek Wind Farm acknowledged these potential impacts?**

2 **A:** Yes. Jordan Creek Wind Farm is already engaged in numerous environmental
3 studies of the planned construction area to identify any environmentally sensitive
4 features.¹⁶ The OUCC commends Petitioner for its commitment to minimizing
5 construction in any environmentally sensitive areas.

6 **Q. Should potential environmental impacts prohibit the project?**

7 **A:** No. If construction needs to occur in any of these areas, environmental impacts
8 should not prohibit the project. Petitioner must work with the agency responsible
9 for compliance and enforcement and receive proper permits. Petitioner identified
10 all potential environmental permits and has identified those needed for this
11 project.¹⁷

IV. PETITIONER'S USE OF PUBLIC RIGHTS-OF-WAY

12 **Q: Is Petitioner seeking the right to use public rights-of-way for this Project?**

13 **A:** Yes. Petitioner is seeking the right to use public rights-of-way within the project
14 area,¹⁸ in order to facilitate installation and use of transmission lines.

15 **Q: Do utilities relinquish their rights to use the public rights-of-way when they**
16 **seek declination of jurisdiction?**

17 **A:** Prior IURC Orders addressing wind farm requests for declination of jurisdiction
18 suggests the Commission determine rights to use the public rights-of-way on a

¹⁶ Petitioner's Exhibit 1-Verified Direct Testimony of Zachary Melda at pages 5-6, Question 14.

¹⁷ Petitioner's Exhibit 1- Verified Direct Testimony of Zachary Melda page 10 and 11, Questions 25 and 26.

¹⁸ Petitioner's Exhibit 1- Verified Direct Testimony of Zachary Melda page 15, Question 36.

1 case-by-case basis. As an example, the Commission has allowed a limited use of
2 the public rights-of-way:

3 Petitioner shall not exercise an Indiana public utility's
4 rights, powers, and privileges of eminent domain and of
5 exemption from local zoning and land use ordinances in the
6 construction and operation of the Facility. Petitioner
7 specifically retains the rights, powers and privileges of a
8 public utility ... to use public rights-of-way ... for Facility
9 transmission lines.¹⁹

10 Equally, the Commission has ordered an independent power producer "shall not
11 exercise any of the rights, powers, and privileges of an Indiana public utility in the
12 construction and operation of the project, e.g., the power of eminent domain, use
13 of public rights-of-way, exemption from zoning, and land use regulation."²⁰

14 **Q: Does the OUCC agree with Petitioner's request to retain the right to use**
15 **public rights-of-way for this Project?**

16 **A:** Yes. The OUCC concurs with Petitioner's request for limited use of public rights-
17 of-way. Petitioner requests use of the rights-of-way to facilitate construction and
18 use of a transmission line, much like Fowler Ridge Wind Farm, LLC, in IURC
19 Cause No. 43338.

20 **Q: Has Jordan Creek Wind Farm received permits to cross the rights-of-way**
21 **for state highways for this project?**

22 **A:** Not yet. Petitioner indicated it needs a permit from the Indiana Department of
23 Transportation "INDOT" in order to utilize INDOT rights-of-way along Indiana
24 State Road 63 to construct the 32-mile 345 kilovolt transmission line to the point

¹⁹ Fowler Ridge Wind Farm, LLC, *IURC Cause No. 43338*, November 27, 2007 Order, Ordering Paragraph 4.

²⁰ Benton County Wind Farm, LLC, *IURC Cause No. 43068*, December 6, 2006 Order, Ordering Paragraph 4.

1 of interconnection in Vermillion County.²¹ Petitioner indicated INDOT will not
2 issue a permit until the Commission issues an order in this Cause.

V. INTERCONNECTON

3 **Q: Are there any issues with Petitioner's planned interconnection with MISO?**

4 **A:** No. The OUCC does not take issue with the planned interconnection. Petitioner
5 made due diligence to ensure there would be no negative effects from the
6 interconnection, and Petitioner has provided a signed interconnection agreement
7 that it submitted as part of this proceeding.

VI. REPORTING REQUIREMENTS

8 **Q: Does the OUCC agree with Petitioner's proposed reporting requirements?**

9 **A:** Yes. Petitioner outlines proposed reporting requirement in Petitioner's Exhibit 1,
10 the Verified Direct Testimony of Zachary Melda (at page 20, Question and
11 Answer 54). The proposed reporting is consistent with the OUCC's
12 recommendations in prior dockets and with previous IURC Final Orders
13 regarding wind energy and Commission jurisdiction.

14 **Q: Does the OUCC recommended any additional reporting requirements?**

15 **A:** Yes. The OUCC recommends Petitioner file its Initial Quarterly Report within
16 thirty (30) days of an IURC Final Order in this docket.

²¹ Petitioner's Exhibit 1- Verified Direct Testimony of Zachary Melda page 10, Question 25.

VI. JORDAN CREEK WIND FARM IS IN THE PUBLIC INTEREST

1 **Q: Is there a need for this additional electric generation source?**

2 **A:** Yes. According to the State Utility Forecasting Group, about 600 megawatts
3 (“MW”) of additional generation will be required by 2019 and over 1,000 MW
4 will be needed by 2022.²²

5 **Q: Does Indiana support the development of clean energy?**

6 **A:** Yes. The Indiana Voluntary Clean Energy Portfolio Standard Program, for
7 example, provides incentives to utilities who voluntarily increase the amount of
8 clean energy resources in their electricity portfolios.²³

9 **Q: Is the Jordan Creek Wind Farm in the public interest?**

10 **A:** Yes. Jordan Creek Wind Farm would provide a renewable, emission-free power
11 resource. Environmentally, Petitioner’s proposal appears to be designed to site the
12 turbines while preserving the use of the land and minimizing impacts to
13 endangered species, migratory birds, and environmental sensitive areas. The
14 project will not release pollutants such as carbon dioxide (CO₂), sulfur dioxide
15 (SO₂), nitrous oxide (NO_x), or mercury. The project will add numerous jobs.
16 Petitioner thoroughly outlines all the benefits in Petitioner’s Exhibit 1, the
17 Verified Direct Testimony of Zachary Melda.²⁴ These benefits are a trend with
18 wind farm projects previously presented before the Commission.

²² Indiana Electricity Projections: The 2015 Forecast, State Utility Forecasting Group, Purdue University, November 2015, Table 3-8.

²³ Authorized by IC 8-1-37 and implemented by 170 IAC 17.1.

²⁴ At page 13 and 14, Question 32.

VII. CONCLUSION AND RECCOMENDATION

1 **Q: If the IURC declines jurisdiction will Petitioner be left unregulated?**

2 **A:** No. Petitioner is subject to local, state and federal governing bodies regardless of
3 whether the commission exercises or declines jurisdiction in whole or in part.

4 Petitioner will be subject to the Benton and Warren County Commissions, the
5 Indiana Department of Environmental Management, the United States Fish and
6 Wildlife Services, the U.S. Army Corps of Engineers, the Federal Aviation
7 Administration, the Indiana Department of Transportation, and the Federal
8 Energy Regulatory Commission.

9 **Q: Should the Commission decline to exercise its jurisdiction over Petitioner?**

10 **A:** Yes. For the reasons I discussed earlier, Petitioner is an energy utility and
11 Petitioner's project is in the public interest; sufficient local, state, and federal
12 regulatory oversight will still remain. Therefore, the Commission should decline
13 to exercise its jurisdiction over Petitioner as allowed by Indiana law.

14 **Q. What does the OUCC recommend in this proceeding?**

15 **A.** The OUCC recommends the Commission issue an order in this Cause declining to
16 exercise full jurisdiction over Petitioner's construction, ownership and operation
17 of, and other activities in connection with, the Jordan Creek Wind Farm facility.
18 Additionally, the OUCC recommends the Commission require Petitioner to
19 submit reports on the status of the wind farm's development as proposed by
20 Petitioner and as supplemented by the OUCC's recommendation for an initial
21 quarterly report within thirty days of a Final Order in this proceeding.

1 **Q.** **Does this conclude your testimony?**

2 **A.** Yes.

APPENDIX A

1 **Q: Summarize your professional background and experience.**

2 **A:** I graduated from Michigan State University in 2008 with a Bachelor of Science
3 degree in Environmental Science and Management. I graduated from Florida
4 State University College of Law, in May 2011 with a Juris Doctorate and
5 Environmental Law certificate. I spent over 2 years while in law school as a
6 certified legal intern, providing pro bono legal services to poverty level residents
7 of Tallahassee. I worked in the legal department of Depuy Synthes, a Johnson &
8 Johnson Company, where I assisted with patent filings and nondisclosure
9 agreements. Starting in 2013, I worked for the Indiana Department of
10 Environmental Management as a rule writer, I worked extensively with the public
11 at large, special interests groups, and affected regulated entities to understand the
12 rulemaking process and to respond to their comments on ongoing rules. I joined
13 the OUCC in July of 2017.

14 **Q: Describe some of your duties at the OUCC.**

15 **A:** I review and analyze utilities' requests and file recommendations on behalf of
16 consumers in utility proceedings. As applicable to a case, my duties may also
17 include analyzing state and federal regulations, evaluating rate design and tariffs,
18 examining books and records, inspecting facilities, and preparing various studies.
19 The majority of my expertise is in environmental science, environmental state and
20 federal regulation, and state agency administration.

STATE OF INDIANA

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IN THE MATTER OF THE PETITION BY)
JORDAN CREEK WIND FARM, LLC)
FOR CERTAIN DETERMINATIONS BY)
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ITS JURISDICTION OVER PETITIONER'S)
ACTIVITIES AS A GENERATOR OF)
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OBJECTIONS AND RESPONSES OF PETITIONER TO THE
INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR'S
DATA REQUEST SET NO. 1

Petitioner, Jordan Creek Wind Farm, LLC ("Petitioner"), pursuant to Ind. Tr. R. 26(B), by its counsel, hereby submits the following objections and responses to the Indiana Office of Utility Consumer Counselor's Data Request Set No. 1 (the "Data Requests").

GENERAL OBJECTIONS

1. Petitioner objects to the Data Requests on the basis of the attorney-client privilege, the work-product doctrine, and any public records exemptions, to the extent the Data Requests seek disclosure of documents constituting, evidencing or reflecting confidential communication between Petitioner and attorneys or documents that are otherwise protected from disclosure by the attorney-client privilege, the work-product doctrine, or public records exemptions.

2. Petitioner objects to the Data Requests to the extent the Data Requests seek the disclosure of confidential, proprietary, competitively sensitive and/or trade secret information. Petitioner has made reasonable efforts to maintain the secrecy of this information and such information derives independent economic value from not being generally known to nor readily ascertainable by proper means by others who can obtain economic value from its disclosure or use.

3. Petitioner objects to the Data Requests to the extent the Data Requests are overly broad in terms of time and/or scope in that the Data Requests seek documents or information which are neither relevant nor material to the subject matter of this Cause and which are not reasonably calculated to lead to the discovery of admissible evidence.

4. Petitioner objects to the Data Requests to the extent the Data Requests seek information outside the scope of this proceeding, and as such, the Data Requests

seek information not reasonably calculated to lead to the discovery of admissible evidence.

5. Petitioner objects to the Data Requests to the extent the Data Requests seek information that is irrelevant to this proceeding and that is not calculated to lead to the discovery of admissible evidence.

6. Petitioner objects to the Data Requests to the extent the Data Requests are vague, ambiguous or unduly burdensome and provide no basis on which Petitioner can determine what information is sought.

7. Petitioner objects to the Data Requests on the grounds and to the extent the Data Requests attempt or purport to impose upon Petitioner any obligation to respond to the Data Requests beyond those requirements imposed by the Indiana Rules of Trial Procedure or to supplement these responses except to the extent required by Indiana Trial Rule 26(E).

8. Petitioner further objects to the Data Requests on the grounds and to the extent the Data Requests seek the name(s) of the person(s) responsible for preparing the responses and concerning all documents produced as part of the responses. *United States v. National Steel Corp.*, 18 F.R.D. 599, 600 (S.D. Tex. 1960); *Hopkins Theatre, Inc. v. RKO Radio Pictures, Inc.*, 18 F.R.D. 379, 383 (S.D.N.Y. 1956); *Maple Drive-In Theatre Corp. v. Radio-Keith-Orpheum Corp.*, 23 Fed. R. Serv. 33,321, case 2 (S.D.N.Y. 1956).

Without waiving these objections, Petitioner responds to the Data Requests in the manner set forth below.

RESPONSE

Q 1-1: On page 8 of Petitioner's Exhibit 1, the Verified Direct Testimony of Zachary Melda, Mr. Melda states: "A Conditional Use Permit is required from the Benton County Board. Jordan Creek Wind is in the process of obtaining such a permit, and a hearing on Jordan Creek Wind's permit application is scheduled to occur on August 31, 2017."

Has Petitioner secured the conditional use permit from Benton County, as referenced in this portion of Mr. Melda's direct testimony? If not, please explain.

Response: Yes. The Benton County Board held its meeting regarding Petitioner's requested Conditional Use Permit and voted to approve this permit on August 30, 2017.

Information and Witnesses:

Information supplied by Zachary Melda. Proposed witnesses at this time would include, but may not be limited to, the following: Zachary Melda.

Q 1-2: On page 9 of Petitioner's Exhibit 1, the Verified Direct Testimony of Zachary Melda, Mr. Melda states: "Warren County has approved the decommissioning plan, and we are in the process of negotiating approval in Benton County."

Please provide an update on the approval from Benton County regarding Petitioner's decommissioning plan before that local authority.

Response: Petitioner and Benton County have agreed to a decommissioning plan pursuant to a Decommissioning Agreement entered into on August 1, 2017.

Information and Witnesses:

Information supplied by Zachary Melda. Proposed witnesses at this time would include, but may not be limited to, the following: Zachary Melda.

Q 1-3: On page 10 of Petitioner's Exhibit 1, the Verified Direct Testimony of Zachary Melda, Mr. Melda states:
State requirements for this Project include the following ...
Permits, as needed, from INDOT to allow Project electric lines and other facilities to cross state highways for driveways, road exits, etc. Specifically, Jordan Creek Wind will require a permit from INDOT in order to utilize INDOT right-of-way along Indiana State Road 63 to construct the 32-mile 345 kV transmission line to the point of interconnection in Vermillion County. My understanding is that receipt of Commission approval in this proceeding is necessary before Petitioner can obtain a permit for use of the INDOT right-of-way.

Please provide documentation supporting Mr. Melda's understanding that INDOT will not approve a right-of-way permit prior to Commission approval.

Response: Mr. Melda's understanding of the INDOT requirement to obtain Commission approval prior to INDOT approving a permit for use of the Indiana State Road 63 right-of-way is based upon conversations with personnel from the INDOT district office in Crawfordsville, Indiana. Specifically, Mr. Melda met with INDOT personnel from the Crawfordsville district office on April 20, 2017. At that meeting, INDOT personnel confirmed that Petitioner would be required to obtain an order from the Commission before applying for a permit from INDOT for use of INDOT right-of-way along State Road 63.


Information and Witnesses:

Information supplied by Zachary Melda. Proposed witnesses at this time would include, but may not be limited to, the following: Zachary Melda.

VERIFICATION

Zachary Melda hereby affirms under the penalties of perjury that he is an authorized representative of Jordan Creek Wind Farm, LLC ("Petitioner"), and that he is authorized to make this verification; that he has read the foregoing Objections and Responses of the Petitioner to the Indiana Office of Utility Consumer Counselor's Data Request Set No. 1 and knows the contents thereof; that the responses set forth herein, subject to inadvertent and undiscovered errors, are based upon and necessarily limited by the records and information still in existence, presently recollected, and thus far discovered in the course of preparation of the responses; and consequently, Petitioner reserves the right to make any change in its responses if it appears at any time that omissions or errors have been made therein, and subject to the limitations set forth herein, that said responses are true to the best of his knowledge, information, and belief.

Dated this 22 day of September, 2017.


Zachary Melda

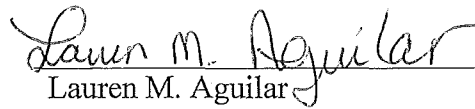
AS TO OBJECTIONS:


Randolph L. Seger (240-49)
Michael T. Griffiths (26384-49)
Bingham Greenebaum Doll LLP
2700 Market Tower
10 West Market Street
Indianapolis, Indiana 46204
Tel: (317) 635-8900
Fax: (317) 236-9907
Email: rseger@bgdlegal.com
mgriffiths@bgdlegal.com

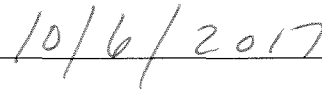
Attorneys for Petitioner,
Jordan Creek Wind Farm, LLC

AFFIRMATION

I affirm, under the penalties for perjury, that the foregoing representations are true.



Lauren M. Aguilar
Utility Analyst
Indiana Office of Utility Consumer Counselor


Date