North Carolina Department of Revenue

Beverly Eaves Perdue
Governor

David W. Hoyle
Secretary

September 7, 2011

Via Facsimile [redacted]

[redacted]

Re: [redacted]

FID: [redacted]
FID: [redacted]

Dear Mr. [redacted]

We are in receipt of your letter dated April 1, 2011 requesting a private letter ruling on behalf of your above referenced clients regarding the application of sales and use taxes and privilege tax to purchases for a wind energy facility. We are also in receipt of your letters dated May 19, 2011 and July 7, 2011 in which you provided additional information in response to our inquiries regarding the wind energy facility.

In your private letter ruling request letter dated April 1, 2011, you state that '[redacted] an [redacted] limited liability company (the 'Taxpayer') hereby requests a private letter ruling from the North Carolina Department of Revenue. . . ." It is our understanding that '[redacted] is a single member limited liability company that is wholly-owned and managed by [redacted] ["[redacted] parent company, [redacted] is a publicly traded [redacted] company that is the [redacted] and operator of [redacted] . . . [redacted] has multiple wholly-owned subsidiaries, including [redacted] Generally, [redacted] forms a new special purpose entity to own its wind energy projects in the U.S. [redacted] will form a special purpose entity ["[redacted] to own the contemplated wind energy facility in [redacted] and [redacted] counties (the 'North Carolina Project'). [redacted] will manufacture, own and sell the electricity that is generated by the wind energy equipment." This private letter ruling is issued to [redacted] which will be the parent company of [redacted]

"The Taxpayer intends to construct a wind energy facility of up to [redacted] comprising up to [redacted] wind turbines in [redacted] and [redacted] counties (the 'Project'). Session Law 2007-397 ('Senate Bill 3'), requires investor-owned utilities in North Carolina to meet up to 12.5% of their energy needs through renewable energy resources or energy efficiency measures by 2021. Rural electric cooperatives and municipal electric suppliers must meet at least 10% of their energy needs in accordance with the Renewable Energy and Energy Efficiency Portfolios Standard ('REPS') by 2018.

"The Project will provide a significant source of RECs for use by Electric Power Suppliers to demonstrate compliance with Senate Bill 3. This Project is expected to generate approximately [redacted] RECs annually. . . . The Electric Power Suppliers are not determined as of yet.

'[redacted] and its subsidiaries market, develop, own and operate wind and other energy facilities . . . and provide a wide range of other energy services, including energy and asset management and structured power solutions. . . . [redacted] will secure some of the purchase contracts for equipment that will be located at the North

Carolina Project. [redacted] will enter into these contracts before [redacted] is formed due to the long procurement lead times required to obtain this equipment.

"Generally all of the items that are purchased by [redacted] for the North Carolina Project will be recorded in [redacted] Construction in Progress ('CIP') accounts. To the extent that items need to be purchased on behalf of [redacted] by [redacted] to take advantage of lead times or bulk purchase pricing, these purchases will be recorded in a CIP holding account established by [redacted]

". . . [redacted] will directly purchase other equipment. . . . [O]nce [redacted] is formed, it will enter into an agreement with a specified turbine vendor for the purchase of approximately 150 wind turbines. The turbines will be delivered by the turbine vendor directly to [redacted] in North Carolina and the first use of the turbines will be in North Carolina.

'[redacted] will contract with one or more general contractors and sub-contractors for the installation of the equipment at the North Carolina Project. Depending on the timing of the contract, [redacted] may first enter into a contract with a contractor or sub-contractor on behalf of the North Carolina Project, but it is contemplated that [redacted] will assign any such contract to [redacted] upon its formation. Some minor equipment may be purchased by contractors or subcontractors, such as equipment related to the energy collection system. . . . Any purchases of equipment by a contractor or sub-contractor should be itemized on the contractor's or sub-contractor's invoice to [redacted] [redacted] will be the ultimate user of the equipment for the North Carolina Project. . . . [redacted] will be the owner of the equipment at the North Carolina Project.

'[redacted] will contract the operation and maintenance of the equipment to another entity that is wholly-owned by [redacted] . . . [redacted] will contract with [redacted] a wholly owned entity of [redacted] to employ the workers necessary to operate and maintain the facility. [redacted] will have full authority to act on [redacted] behalf in sub-contracting third-party services or procuring parts as required to operate the North Carolina Project within [redacted] specifications. [redacted] will compensate and reimburse [redacted] for all direct work, sub-contracted work, and purchases of parts to operate and maintain the North Carolina Project. . . . Any use of the equipment by [redacted] will be on behalf of [redacted] and required to operate and maintain the North Carolina Project pursuant to its contract with [redacted]

The taxpayer requests a private letter ruling regarding whether the following component parts that will become a part of the North Carolina Project are subject to the 1% privilege tax with a maximum tax of $80.00 per article pursuant to N.C. Gen Statute § 105-187.51.

Project Components

1. Wind Turbine

"The wind turbine consists of a nacelle, rotor and blades, and a tower. . . . Each turbine will be purchased as one unit from [redacted] . . . [and will contain] an Operations and Maintenance Supervisory Control and Data Acquisition System ("SCADA") that is run parallel to the Project's facility-wide SCADA system. . . .

a. Nacelle

"The main mechanical and electrical components of the wind turbine are located in the nacelle. Electricity could not be produced without all of the components in the nacelle. The nacelle is housed in a steel reinforced fiberglass shell that protects internal machinery from the environment.

"The nacelle sits atop the tower, and the rotor assembly is mounted on a drive shaft in the nacelle that is connected to the gearbox, generator and generator step-up transformer contained within the nacelle. The nacelle is mounted on a sliding ring that allows it to rotate or 'yaw' into the wind to maximize energy capture. Structurally, the nacelle is mounted on a bed plate, which is bolted to the tower and rotated by electric motors that turn the nacelle into the wind. The drive shaft within the nacelle is connected to a transmission within the nacelle, which uses a gearbox to increase the drive shaft rotational speed. The output shaft from the transmission connects to the generator. The spinning rotors generate an electrical current [redacted], which is the same process used in traditional electricity generators. Electricity produced in the generator within the nacelle at [redacted] is routed to the generator step-up transformer in the nacelle which increases, or steps up, the

voltage to the [redacted] that is transmitted through the collector lines. The electricity is conducted through cables within the tower to a switch enclosure mounted at the base of the tower.

"The nacelle also houses hydraulics, cooling systems and control and monitoring equipment, all of which are essential to the production of electricity. The nacelle includes the braking system, which controls the rotor pitches and enables the blades to stop turning in the event of an emergency. The nacelle also houses high temperature sensors that monitor (via the SCADA system), the temperature of the generator. The nacelle is externally equipped with monitoring equipment, [redacted]. This equipment allows the plant workers to control the wind turbines and ensure that the turbines are functioning at the safest and most efficient levels. Without these monitoring systems, the turbines could sit unproductive for periods of time or function at dangerous levels.

b. Rotor Assembly & Rotor Blades

"The rotor assembly (or rotor hub) is mounted on the drive shaft of the nacelle and is operated [redacted]. Each rotor consists of three [redacted] blades . . . [which] are bolted to the rotor assembly, [redacted], which in turn is bolted to the main drive shaft in the nacelle. The 'rotor pitch control system' is comprised of [redacted] motors within the rotor hub. These motors vary the pitch of each blade according to wind conditions to maximize turbine efficiency at varying wind speeds.

c. Tower

"A tubular tower supports the nacelle and rotor equipment. The tubular towers are conical steel structures or a mixture of steel and concrete, depending on the final turbine selection. Each tower has a locked access door, internal lighting and an internal ladder to access the nacelle. Towers are constructed using [redacted] sections, each weighing between [redacted] tons. The tower sections are bolted to each other and the bottom section is attached with anchor bolts to the concrete foundation.

"The tower also has a fire safety system with sensors that monitor the generator in case of an over-temperature warning. As with the heat sensors in the nacelle, these sensors are essential to the production of electricity, as they alert facility operators in the event a turbine is not functioning correctly."

Representative's Analysis: "Each wind turbine constitutes mill machinery because each turbine, being comprised of the nacelle, rotor assembly and rotor blades, and tower, is essential to the production of electricity. The tower positions the rotor blades high into the air to enable wind to cause the blades to spin, which in turn cause the rotation of the rotor assembly. The rotor assembly converts kinetic wind energy into rotational mechanical energy. The nacelle converts the rotational mechanical energy generated by the rotor assembly into electricity."

Response: The purchase of wind turbines are subject to the 1% privilege tax with a maximum tax of $80.00 per article provided that the wind turbines are used by [redacted] as described to generate electricity from wind energy for sale. Prior to the formation of [redacted] [redacted] will be responsible for remitting the Manufacturing Machinery and Equipment Privilege Tax to the Department on its purchases of wind turbines and other equipment. [redacted] as described will be responsible for remitting the Manufacturing Machinery and Equipment Privilege Tax to the Department on its purchases of wind turbines and other equipment it purchases directly from its vendors.

Please note that Sales and Use Tax Technical Bulletin Section 58-2 states the following:

A. "Persons purchasing articles subject to the $80.00 maximum tax shall not treat as one article two or more articles which, when joined together, make a functional unit or operating system. Each single article within the functional unit or operating system is subject to the 1% privilege tax with a maximum tax of $80.00 per article.

B. "A manufacturer or processor which purchases various components of mill machinery or equipment, otherwise taxable at the 1% rate, is not purchasing a single article of mill machinery, as such, even though the assembled machinery or equipment constitutes a single article. The purchaser has made numerous purchases of components of machinery or equipment and the tax is due on each purchase at the rate of 1%, and if the cost of any one component does, in fact, exceed $8,000, the $80.00 maximum tax would be applicable thereto. If any one article, as such, is purchased by a manufacturer, it does not lose its identity as a single article because it is too large or cumbersome to be shipped as **"one" single article** and has to be disassembled for shipping purposes or is billed on more than one invoice. The single article limitation does not apply to numerous purchases from the same or different vendors, even though the various components so purchased may be assembled by the purchaser into a single article. The purchase of a quantity of repair parts necessary to recondition or upgrade mill machinery is not the purchase of a single article."

2. Foundation

"Each turbine sits on [redacted] foundation of [redacted], which may be further supported by [redacted]. The foundation provides structural support for the turbine. [redacted] It is also used in the electrical grounding of the system. Each turbine's foundation is designed and evaluated specifically for that turbine. . . . The foundation supports the tower, and as a result, energy production would not be possible without the foundation. . . . The lower section of the tower is attached to the foundation with anchor bolts."

Representative's Analysis: "The foundation constitutes mill machinery because it provides the requisite structural integrity for the wind turbine. The foundation is "essential to the operation" *of the wind turbine. Engineering standards dictate the design of the foundation and the materials used in the construction of the foundation to ensure that the foundation can support the weight of the turbine and withstand high winds to which the turbine may be subject."*

Response: The foundation to house and support the turbine units, including any parts and materials to construct the structure, pilings and piers, are subject to the 1% privilege tax with a maximum tax of $80.00 per article provided that the foundation is used to support the wind turbines that are used by [redacted] as described to generate electricity from wind energy for sale. The $80.00 maximum tax does not apply to concrete or other similar materials used to construct the foundation as such items do not constitute an article at the time of purchase.

3. External Transformers

"Transformers are attached to the base of each wind turbine tower and are bolted to the foundation. The transformers are used to reconfigure the characteristics of the electricity."

Representative's Analysis: "The transformers constitute mill machinery because they are essential to transforming the characteristics of the electricity collected by the turbines and modifying the voltage of the electricity."

Response: The transformers are subject to the 1% privilege tax with a maximum tax of $80.00 per article provided that the transformers are used by [redacted] as described to generate electricity from wind energy for sale.

4. Computer Systems

"Each turbine is operated by a self-contained control system that is made up of computer hardware and software which collect data that is fed into a SCADA system via a [redacted]. This SCADA system runs parallel to the Operations & Maintenance SCADA systems located in each turbine. Control panels for the SCADA system are attached to [redacted] of each tower and [redacted] the collector substation. The SCADA is made up of computer hardware

and software that collects and reports data from the turbines and allows for control of each turbine and the facility as needed. The SCADA control room will be located in the operations and maintenance facility and will house control panels and other operating and monitoring equipment.

"There are two computer systems used to control the wind turbines. The first system, comprised of hardware and software, is provided by the wind turbine manufacturer and is included in the purchase of each wind turbine. The manufacturer requires the use of this system throughout the warranty of each wind turbine so that the manufacturer is assured that the turbine is being used under the conditions required for safe operation of the turbine. The second system of hardware and software works in conjunction with the manufacturer-installed computer system. This second system . . . tracks and provides data used to ensure the efficient operation of the turbines.

"The data produced by the computer systems is transmitted [redacted] to equipment consisting of hardware and software located in the operations and maintenance building at the North Carolina Project site and also to the national control room located in [redacted] The software allows the data to be interpreted by personnel in both locations. The system allows the personnel to control the turbines and, if necessary, to shut down a turbine."

Representative's Analysis: "The hardware and software that comprise (i) the control system in each turbine and (ii) the SCADA system all function together to allow the facility operators to collect information from the turbines for their proper operation. These control systems and the SCADA system are "testing devices used for checking performance or output of machinery," which are items of mill machinery. . . . The SCADA system is a technologically advanced version of a control panel and its connected wirings. Collectively, the control systems and the SCADA system provide information about each turbine, including performance and output data. Accordingly, all hardware (including control panels) and software for the systems should be subject to the privilege tax."

Response: The computer control system purchased with each wind turbine and attached to the wall of the base of the tower is subject to the 1% privilege tax with a maximum tax of $80.00 per article provided that the computer control system is used by [redacted] as described to generate electricity from wind energy for sale. The SCADA computer system is subject to the 1% privilege tax with a maximum tax of $80.00 per article provided that the SCADA computer system is used by [redacted] as described to generate electricity from wind energy for sale, and provided that the SCADA computer system is used to allow the personnel to control the turbines and to shut down turbines. If the SCADA computer is used for other purposes, the Department will need additional information to make a determination.

The control panels for the computer systems are subject to the 1% privilege tax with a maximum tax of $80.00 per article provided that the control panels are accessories to the computer systems used by [redacted] as described to generate electricity from wind energy for sale. The fiber optic cable network would be subject to the 1% privilege tax rate on each article at the time of purchase provided the items are used by [redacted] as described to generate electricity from wind energy for sale. There is no $80.00 maximum tax on the purchase of fiber optic cable.

5. Interconnect Equipment

"Turbines are connected to each other through [redacted] cable system, the component parts of which are described in paragraphs (a) through (c) below. . . . Each piece of interconnect equipment is essential in transporting the energy generated by the turbines to the substations and in converting the electricity into a voltage that is suitable for sale.

a. Collector Lines

"Collector lines will be under ground and overhead and will connect the turbines to each other, forming a series of circuits. Junction boxes will be installed to connect multiple circuits to the main line collection lines.

i. Underground Collectors

"Each turbine is connected at [redacted] to high-voltage underground cables. The cables are sized to carry the power generated and to minimize energy loss. The cables are installed in underground trenches at least [redacted]. Turbines are connected to each other in a series forming circuits.

ii. Overhead Collectors

"Overhead collector cables will be installed on poles within easements at [redacted]. These overhead cables will be attached to poles and insulators running to the main line collection lines.

b. Main Line Collection Lines

"The collector lines will lead to junction boxes connecting them to main line collection lines. The main line collection lines will follow parallel paths directly to the collector substation.

c. Sub-Transmission Line

"The sub-transmission line will transmit the electrical output from the collector substations to the location where it will be connected to a regional transmission system. The sub-transmission lines are [redacted] and will be constructed on easements between the collector substation and the transmission voltage step-up substation."

Representative's Analysis: "All of the interconnect equipment (collector lines, main-line collection lines, and the sub-transmission line) constitute mill machinery because these items enable the electricity to travel from the turbines to the substations to be stepped in voltage. . . . Here, the electricity, which is initially harnessed at the turbine, is transported over the collection lines to the main-line collection lines to the collector substation and then to the step-up substation. The main-line collection lines are essentially processing lines, as electricity is collected in these lines before it is deposited at the collector substation to be stepped-up to a higher voltage. The sub-transmission line will transmit electricity from the step-up substation to the "interconnection switching station," the location where the electricity will be connected to a regional transmission system. Thus, each type of collection line is used to transport electricity as part of the electricity production process."

Response: The component parts of the underground and above-ground cable system for the interconnect equipment are subject to the 1% privilege tax rate on each article at the time of purchase provided the items are used by [redacted] as described to generate electricity from wind energy for sale. The $80.00 maximum tax would only apply to individual purchases of material to construct the collector lines, main-line collection lines, and sub-transmission lines. The $80.00 maximum tax does not apply in total to a collection line constructed from individual purchases of tangible personal property.

Also, please note that Sales and Use Tax Technical Bulletin Section 59-4 B. 3. provides that purchases of "all lines, wiring, poles, bracing, cross-arms, insulators or any other materials going into or constituting a part of a power line structure used for <u>distribution</u> of power or current" by an electric power company is subject to the general rate of State tax and any applicable local sales or use tax. (Underlining added)

6. Substations

"The electricity produced by the turbines will be collected in substations. Each substation consists of a control house bolted to a foundation and will include transformers, outdoor breakers, metering and relay equipment, and high voltage bus work.

a. Collector Substation

"The collector substations will be located adjacent to the wind facility. The underground (and, if applicable, overhead) main-line collection lines will meet at the collector substation, where the power is connected to a low-voltage switchgear and transformed to the higher interconnect voltage for delivery

to the step-up substation, where its voltage is stepped up. All electricity is collected at the collector substation for preparation to a step-up in voltage.

"The collector substation will consist of two main transformers, circuit breakers, switching devices, auxiliary equipment, and a control enclosure containing equipment for proper control, protection, monitoring, and communication with other stations throughout the facility. The substation will include a control building that will house the metering and relay equipment, the control panel for the SCADA system, back-up service batteries and a remote communication system so that workers can coordinate operations between the collector substation and other substations. The substation will be located within a fenced area."

Representative's Analysis: "The collector substation is essential to the production of electricity, as it is where all of the electricity is collected for preparation to a step-up in voltage. . . . The items located within the collector substation, including transformers, circuit breakers, switching devices, auxiliary equipment, a control panel, and relay equipment are all listed I Section 07D.0201 of the Administrative Code and/or Technical Bulletin as items of mill machinery. Thus all of the items located within the collector substation should be eligible for the privilege tax."

Response: The foundation for the collector substation control building, the control building, and the fence, including any parts and materials to construct the structures, are subject to the general rate of State tax and any applicable local sales or use tax.

The items located within the collector substation, such as the transformers, circuit breakers, switching devices, auxiliary equipment, control panels, and relay equipment, are subject to the 1% privilege tax with a maximum tax of $80.00 per article provided that the items are used by [redacted] as described to generate electricity from wind energy for sale.

The underground and overhead main-line collection lines would be subject to the 1% privilege tax rate on each article at the time of purchase provided the items are used by [redacted] as described to generate electricity from wind energy for sale. The $80.00 maximum tax would only apply to individual purchases of material to construct the main-line collection lines. The $80.00 maximum tax does not apply in total to a main-line collection line constructed from individual purchases of tangible personal property.

Please note that Sales and Use Tax Technical Bulletin Section 59-4 B. 3. provides that purchases of "all lines, wiring, poles, bracing, cross-arms, insulators or any other materials going into or constituting a part of a power line structure used for <u>distribution</u> of power or current" by an electric power company is subject to the general rate of State tax and any applicable local sales or use tax. (Underlining added)

b. Transmission Voltage Step-up Substation

"The transmission voltage step-up substation will consist of a main transformer, circuit breakers, switching devices, auxiliary equipment, and a control enclosure containing equipment for proper control, protection, monitoring, and communications with other stations in the facility. The principal function of the step-up substation is to increase the voltage from the collector substation to that of the transmission line to which the Project will interconnect with the regional transmission system.

"The step-up substation will be located within a fenced area. The substation will include a control building that will house the metering and relay equipment, a control panel for the SCADA system, back-up service batteries and a remote communication system so that workers can coordinate operations between the step-up substation and other substations."

Representative's Analysis: "The step-up substation is crucial to the manufacturing process, as it increases the voltage of the electricity to the voltage necessary for the electricity to be transmitted to the regional transmission system. . . . The items located within the step-up substation, including transformers, circuit breakers, switching devices, auxiliary equipment, control panel, and relay equipment are all listed I Section 07D.0201 of the Administrative Code and/or Technical Bulletin as

items of mill machinery. Thus all of the items located within the step-up substation should be eligible for the privilege tax."

Response: The foundation for the step-up substation control building, the control building, and the fence, including any parts and materials to construct the structures, are subject to the general rate of State tax and any applicable local sales or use tax.

The items located within the step-up substation, such as the transformers, circuit breakers, switching devices, auxiliary equipment, control panels, and relay equipment, are subject to the 1% privilege tax with a maximum tax of $80.00 per article provided that the items are used by [redacted] as described to generate electricity from wind energy for sale.

The transmission lines would be subject to the 1% privilege tax rate on each article at the time of purchase provided the items are used by [redacted] as described to generate electricity from wind energy for sale. The $80.00 maximum tax would only apply to individual purchases of material to construct the sub-transmission lines. The $80.00 maximum tax does not apply in total to a sub-transmission line constructed from individual purchases of tangible personal property.

Please note that Sales and Use Tax Technical Bulletin Section 59-4 B. 3. provides that purchases of "all lines, wiring, poles, bracing, cross-arms, insulators or any other materials going into or constituting a part of a power line structure used for distribution of power or current" by an electric power company is subject to the general rate of State tax and any applicable local sales or use tax. (Underlining added)

7. SODAR Equipment

"A sonic detection and ranging ('SODAR') measures the [redacted]. The SODAR is attached to a concrete slab with anchor bolts and is less than 10 feet tall.

"The SODAR equipment will be used to monitor the wind resources at the North Carolina Project site, which is crucial for achieving successful electricity production. The SODAR equipment is also known as "wind profiling" equipment, as it measures the wind conditions at various heights in the atmosphere to determine the direction in which a wind turbine must be situated in order to produce electricity. Without the SODAR equipment, the wind turbines would not be properly situated to produce electricity."

Representative's Analysis: "The SODAR equipment should be considered mill machinery or an accessory thereto under the Administrative Code, which provides that mill machinery includes 'testing devices used for checking performance or output of machinery.' The SODAR equipment could also be considered 'supplies for quality control or the improvement of or development of manufactured products' under the Administrative Code. . . . The SODAR equipment aids in the efficiency of the production of electricity, by providing the wind facility's operators with the information necessary to determine the proper settings for the wind turbines. Additionally, this equipment could be considered research and development equipment, as it allows the Taxpayer to perform the research necessary to determine the ideal conditions for producing electricity."

Response: The SODAR equipment is subject to the 1% privilege tax with a maximum tax of $80.00 per article provided that the equipment is used by [redacted] as described to generate electricity from wind energy for sale.

The concrete slab, anchor bolts, and any other parts and materials used to secure the equipment, are subject to the 1% privilege tax with a maximum tax of $80.00 per article provided that the materials are used to support the SODAR equipment that is used by [redacted] as described to generate electricity from wind energy for sale.

8. Meteorological Equipment

"Several permanent meteorological towers will be installed to obtain clean and unobstructed wind data for performance management. These towers will be self-supporting and . . . used to assess wind resources.

"The temporary meteorological equipment used to evaluate the North Carolina Project's viability may be purchased by [redacted] or may already be owned by [redacted] Any temporary meteorological equipment will be installed and used to evaluate the viability of the North Carolina Project. The equipment will be owned (or, in some cases, may already be owned) by [redacted] and will be booked as assets of [redacted] After [redacted] uses the equipment to assess the viability of the North Carolina Project, it will be removed from the North Carolina Project site and used in [redacted] evaluation of other project sites. Permanent meteorological equipment may be purchased by [redacted] and this equipment would be installed during construction of the North Carolina Project. This equipment would replace the temporary equipment, which [redacted] only uses in its pre-development activities.

"While it is possible for electricity to be generated without the meteorological towers, the towers are an integral part of the electricity generation process. The meteorological towers aid in the effectiveness of electricity generation by providing the information necessary to determine the proper settings for the wind turbines. . . . The wind data from the meteorological towers is accessed by operations personnel and used in conjunction with the information provided by the SCADA systems to effectively operate the wind turbines for maximum electricity generation."

Representative's Analysis: "The meteorological equipment should be considered mill machinery or an accessory thereto under the Administrative Code, which provides that mill machinery includes 'testing devices used for checking performance or output of machinery.' The meteorological equipment could also be considered 'supplies for quality control or the improvement of or development of manufactured products' under the Administrative Code. Additionally, this equipment could be considered research and development equipment, as it allows the Taxpayer to perform the research necessary to determine the ideal conditions for producing electricity."

Response: Any temporary meteorological equipment that may already be owned by [redacted] and applicable taxes have been satisfied in North Carolina or another jurisdiction, would not be subject to the general rate of tax or the privilege tax. Any temporary meteorological equipment that is purchased by [redacted] and delivered and installed for initial use at the North Carolina project for pre-development activities, would be subject to the general rate of State tax and any applicable local sales or use tax. [redacted] will be responsible for remitting the State tax and any applicable local sales or use tax to the Department on its purchases of temporary meteorological equipment.

The permanent meteorological equipment that is purchased by [redacted] would be subject to the 1% privilege tax with a maximum tax of $80.00 per article provided that the equipment is used by [redacted] as described to generate electricity from wind energy for sale.

9. Operations & Maintenance Buildings

"An O&M facility will be constructed at a location that is central to the Project and is well suited for access to the turbines as well as the substations. The facility will be . . . suitable for operating personnel, operations and communication equipment, parts storage and maintenance activities, and a vehicle parking area. The O&M facility will house the control room for the SCADA system. An area for outdoor storage of larger equipment and materials will also be included within a fenced area for safety and security."

Representative's Analysis: "The materials used to construct the shell of the O&M facility will not be considered mill machinery. However, the components housed in the control room that are interconnected to the turbines and/or substations via computer systems, including control panels, operation and monitoring equipment, and all wiring will be considered mill machinery, as provided in the Technical Bulletin. Further, all of the SCADA system equipment located in the O&M building will be mill machinery, as described above."

Response: The operations & maintenance facility, the outdoor storage facility, general wiring, and the fence, including any parts and materials to construct the structures, are subject to the general rate of State tax and any applicable local sales or use tax.

Any components, control panels, operation and monitoring equipment interconnected to the turbines and/or substations are subject to the 1% privilege tax with a maximum tax of $80.00 per article provided that the items are used by [redacted] as described to generate electricity from wind energy for sale. The wiring would be subject to the 1% privilege tax rate at the time of purchase provided the items are used by [redacted] as described to generate electricity from wind energy for sale. There is no $80.00 maximum tax on the purchase of a unit of wiring.

The purchases of mill machinery equipment and mill machinery parts and accessories described above by contractors or subcontractors will be subject to the 1% privilege tax with a maximum tax of $80.00 per article pursuant to N.C.G.S. 105-187.51(a)(2) with the exception of the fiber optic cable network, components parts of the underground and above-ground cable system for the interconnect equipment, and transmission lines on which the tax rate will be 1% with no maximum tax applicable to each purchase. In order for purchases of such items by contractors and subcontractors to qualify for the 1% rate of tax, title to the items must be transferred to [redacted] as described herein if such purchases were made by [redacted] and used to generate electricity from wind energy for sale. The general rate of State tax and any applicable local sales or use tax applies to other purchases of tangible personal property for use in conjunction with a contract with [redacted]

Contractors and subcontractors may obtain the **Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E,** from the North Carolina Department of Revenue website or the Taxpayer Assistance Division to be executed by them and furnished to their vendors in connection with such purchases as the vendors' authority to exempt the transaction from the sales and use tax.

This ruling is based solely on the facts submitted to the Department of Revenue for consideration of the transactions described. If the facts and circumstances given are not accurate, or if they change, then the taxpayer requesting this ruling may not rely on it. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material aspect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that this document is not to be cited as precedent and that a change in statute, a regulation, or case law could void this ruling.

Sincerely,

[redacted]
Administration Officer
Sales and Use Tax Division

cc: [redacted] - Director of Sales and Use Tax Division
[redacted] - Assistant Director of Sales and Use Tax Division