BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Marshall Johnson	Commissioner
Ken Nickolai	Commissioner
Thomas Pugh	Commissioner
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SERVICE DATE: APR 13 2006

DOCKET NO. PT-6499/WS-05-1707

ORDER GRANTING SITE PERMIT

In the Matter of a Site Permit for the 205.5-Megawatt Fenton Power Partners, LLC for a Large Wind Energy Conversion system site Permit in Murray and Nobles Counties

The above-entitled matter has been considered by the Commission and the following disposition made. The Commission hereby

> adopts the Findings of Fact and Conclusions and issues a Site Permit with conditions in Murray and Nobles counties.

The Commission agrees with and adopts the recommendations of the Department of Commerce which are attached and hereby incorporated in the Order

BY ORDER OF THE COMMISSION

Burl W. Hair
Executive Secretary

Attachments: Department Comments and Recommendations dated April 6, 2006

(S E A L)
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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS AND RECOMMENDATIONS OF THE MINNESOTA DEPARTMENT OF COMMERCE ENERGY FACILITY PERMITTING STAFF

DOCKET NO. PT 6499/WS-05-1707

Meeting Date: April 6, 2006.....Agenda Item # 2

Company: enXco Development Corporation on behalf of Fenton Power Partners, LLC.

Docket No. **PUC Docket Number: PT 6499/WS-05-1707**

In the Matter of a Site Permit for the 205.5-Megawatt Fenton Power Partners, LLC for a Large Wind Energy Conversion System Site Permit in Murray and Nobles Counties

Issue(s): Should Fenton Power Partners, LLC, be granted a site permit under Minnesota Statutes section 116C.694 to construct a 205.5-Megawatt Large Wind Energy Conversion System and Associated Facilities in Murray and Nobles Counties, Minnesota?

DOC Staff: Larry B. Hartman.....651-296-5089
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Documents Enclosed

Documents enclosed in Commission Packet. See eDockets (05-1707) or the PUC website at: http://energyfacilities.puc.state.mn.us/Docket.html?Id=18236, for the documents identified below.

1. Schematic of Permitting Process for Large Wind Energy Conversion Systems
2. USGS Map of Fenton Wind Power Plant Site
3. Letter from enXco to Glenn DeGroot, dated March 27, 2006
4. Letter from enXco to Department of Natural Resources, dated March 17, 2006
5. Letter from Department of Natural Resources, to enXco, dated March 21, 2006
6. Letter from enXco to Department of Natural Resources, dated March 27, 2006
7. DOC EFP staff Exhibit List
8. Proposed Findings of Fact and Conclusions
9. Site Permit

The enclosed materials are work papers of the Department of Commerce Energy Facility Permitting Staff. They are intended for use by the Public Utilities Commission and are based on information already in the record unless otherwise noted.

This document can be made available in alternative formats; i.e. large print or audio tape by calling (651) 201-2202 (Voice) or 1-800-627-3529 (TTY relay service).

Statement of the Issue

Should the Public Utilities Commission (the PUC or Commission) grant or deny a site permit to Fenton Power Partners, LLC for the 205.5-Megawatt Fenton Wind Power Plant in Murray and Nobles Counties, Minnesota?

Regulatory Framework and Background

Effective July 1, 2005, Article 3 of the energy bill Senate File 1368 transferred energy facility permitting (power plants, transmission lines, pipeline and wind turbine siting) authority from the Minnesota Environmental Quality Board (EQB) to the PUC.

A site permit from the PUC is required to construct a Large Wind Energy Conversion System (LWECS), which is any combination of wind turbines and associated facilities with the capacity to generate five megawatts or more of electricity. This requirement became law in 1995. Minnesota Statutes, sections 116C.691 through 116C.697. The rules to implement the permitting requirement for LWECS are in Minnesota Rules Chapter 4401. A diagram of the permitting process is enclosed for illustration purposes. See item 1 in Commissioner's packet.

Between 1995 and June of 2005, the EQB issued 11 site permits for LWECS projects, totaling approximately 630 Megawatts. Those projects have ranged in size from 10 MW to 107.5 MW and have been or are being built in the Minnesota counties of Lincoln, Pipestone, Murray, Jackson, Martin, Dodge and Cottonwood. The Fenton Wind Power Plant will be located in Murray and Nobles counties.

The Applicant

enXco Development Corporation (enXco) has formed a general-purpose limited liability company called Fenton Power Partners, LLC, which will own and operate the Fenton Wind Power Plant. enXco, based in Escondido, California, is the developer for this project, and is functioning as the agent of Fenton Power Partners, LLC, for the permitting, construction and operation of the Fenton Wind Energy Center.

Project Location

The proposed project site is located in the southern part of Murray and the northern part of Nobles counties. The proposed site, approximately 38,400 acres in size, is comprised primarily of agricultural lands. See item 2 in the Commissioner's packet. The project when complete will displace about 64 acres of agricultural lands for roads and turbines. enXco has easements or options on the land necessary within the site to build the project. Land rights will encompass the proposed wind farm and all associated facilities, including but not limited to wind and buffer easements, wind turbines, access roads, electrical collection system, project substation and feeder lines. The electrical system and feeder lines may be located along public roads when possible.

Fenton Wind Power Plant Project Description

enXco, on behalf of Fenton Power Partners, LLC, is proposing to build the Fenton Wind Power Plant. The project will use up to 137 GE 1.5 megawatt wind turbines or similar model. The turbines will be mounted on 80-meter (262 feet) high freestanding tubular towers. The blades on the wind turbines are 38.5 meters (126 feet) long. The rotor diameter is 77 meters (253 feet). The electrical collector system will consist of underground 34.5 kV collection and feeder lines.

Other project components include: all-weather class 5 access roads of gravel or similar materials, pad-mounted step-up transformers, concrete and steel tower foundations, a supervisory control and data acquisition system, meteorological towers, and an operations and maintenance building.

Power from the project will be sold and delivered to Xcel Energy at the new Fenton Substation located in section 20 in Fenton Township in Murray County.

A Certificate of Need from the Minnesota Public Utilities Commission (PUC) is not required because the project is the result of Xcel Energy's 2001 Commission approved competitive bidding process.

Procedural Background

The site permit application has been reviewed pursuant to the requirement of Minnesota Rules Chapter 4401 (Wind Siting Rules).

On November 27, 2005, the PUC received the site permit application submitted by enXco on behalf Fenton Power Partners, LLC. On December 16, 2005, the PUC accepted the application and made a preliminary determination to issue a draft site permit. Upon acceptance of the application DOC EFP staff initiated the review and notice requirements of Minnesota Rules Chapter 4401.

The rules provide opportunities for the public to participate in deliberations on the LWECS permit application. The public was advised of the submission of the permit application after the application was accepted, a draft site permit on the project was provided for the public and the applicants to

review, the public was afforded a period of time to submit written comments, and a public meeting was held in Lake Wilson on January 10, 2006. About 120 people attended the public meeting.

DOC staff reviewed the permitting process requirements and responded to questions about the draft site permit, and permitting process. Representatives of the applicant were available to describe the project and answer questions. No adverse comments were registered at the public meeting.

Public Comments

Three comment letters were received by the close of the February 1, 2006, comment period.

1) The January 30, 2006, letter from Glenn DeGroot indicated that enXco had not obtained an easement from him for this project. enXco will not locate any turbines on Mr. DeGroot's property as a part of this project. enXco recognizes Mr. DeGroot's wind rights and will comply with any setbacks necessary to allow Mr. DeGroot to place wind turbines on this property. See item 3 in Commissioner's packet.

2) The January 30, 2006, letter from the Minnesota Historical Society indicated its interest in reviewing the results of the archaeological survey and to address ways to avoid, reduce, and/or mitigate any effects to significant sites.

3) The February 1, 2006, letter from the Department of Natural Resources commented on the site permit application and conditions in the draft site permit. On March 10, 2006, DNR staff, enXco and DOC EFP staff met to address the topics raised by the DNR its comment letter. Subsequence information exchanges and correspondence between the DNR and enXco have addressed the topics important to the DNR. See letters (items 4, 5, and 6) exchanged between the DNR and enXco in the Commission's packet.

Issues

No significant issues were identified during the course of this proceeding.

Record

A DOC EFP staff exhibit list of the written comments and other documents that are part of the record in this permit proceeding is included as item 7 in Commissioner's packet. The DOC staff can make any of these documents available to a PUC member upon request, and copies will be available at the PUC meeting.

Findings of Fact

The staff has prepared proposed Findings of Fact and Conclusions for the project. See item 8 in the Commissioner's packet. The proposed Findings address the procedural aspects of the process followed, describe the project, respond to the written comment(s), and address the environmental and other considerations of the project. Most of the findings in the Findings of Fact reflect findings that were also made for other LWECS projects. The following outline identifies the categories of the Findings.

Category	Findings
Background and Procedure	(Findings Nos. 1 – 9)
The Permittee	(Finding No. 10)
Project Description	(Findings Nos. 11 – 18)
Wind Resource Considerations	(Findings Nos. 19 – 23)
Land Rights and Easement Agreements	(Findings Nos. 24 – 25)
Written Comments	(Findings Nos. 26 – 33)
Site Criteria	(Findings Nos. 34 – 77)
Site Permit Conditions	(Findings Nos. 78– 79)

Standard for Permit Issuance

Essentially the test for issuing a site permit for a Large Wind Energy Conversion System is to determine whether a project is compatible with environmental preservation, sustainable development, and the efficient use of resources. Minnesota Statutes section 116C.693. The wind statutes incorporate certain portions of the Power Plant Siting Act, including the environmental considerations. The site criteria addressed in the Findings of Fact (such as human settlement, noise, community benefits, and surface water) track the factors described in the PUC's rules for other types of power plants that are pertinent to wind projects. Minnesota Rules part 4400.3310. Also, the law allows the PUC to place conditions in LWECS permits. Minnesota Statutes section 116C.694 (d). The conditions in this proposed Site Permit are essentially the same as those conditions included in other LWECS site permits issued by the Environmental Quality Board and the PUC. See item 9 in the Commissioner's packet.

MPUC Decision Options

A. Adopt the Findings of Fact and Conclusions that issue a Site Permit with the conditions proposed by EFP staff to Fenton Power Partners, LLC for the 205.5 MW Fenton Wind Power Plant in the Minnesota counties of Murray and Nobles. The site permit issued by the PUC authorizes Fenton Power Partners, LLC to construct and operate a 205.5-megawatt large wind energy conversion system in the counties of Murray and Nobles in accordance with the conditions contained in the site permit and in compliance with the requirements of Minnesota Rules Chapter 4401and Minnesota Statutes section 116C.694.

B. Amend the Findings of Fact and Conclusions and Order and Site Permit as deemed appropriate.

C. Deny the site permit.

D. Make some other decision deemed more appropriate.

DOC Staff Recommendation. The DOC staff recommends option A.