BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS AND RECOMMENDATIONS OF THE OFFICE OF ENERGY SECURITY ENERGY FACILITY PERMITTING STAFF

DOCKET NO. IP-6687/TL-08-988

Meeting Date: September 25, 2008 Agenda Item # __5__

Company: Noble Flat Hill Windpark I, LLC (Noble or the Applicant)

Docket No. IP-6687/TL-08-988

In the Matter of the Application for a Route Permit for the Noble Flat Hill Windpark I 230 kV Transmission Line Project

Issues: Should the Commission accept the application as complete?
Should the Commission appoint a public advisor?
Should the Commission appoint an advisory task force?

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Relevant Document(s)

Route Permit Application .....August 29, 2008

The enclosed materials are work papers of the Office of Energy Security 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).

Attached Document(s)

Attachment A: Overview Map (Application) ..... August 29, 2008

(Relevant documents and additional information can be found on eFilings (08-734) or the PUC Facilities Permitting website: http://energyfacilities.puc.state.mn.us/Docket.html?Id=19642)

Statement of the Issues

Should the Commission accept the route permit application as complete? If complete and accepted, should the Commission appoint a public advisor? Should the Commission appoint an advisory task force?

Introduction and Background

On August 29, 2008, Noble filed a route permit application under the full review process for the Noble Flat Hill Windpark I 230 kV Transmission Line Project (Project). The project is a 230 kV HVTL and requires a Certificate of Need determination.

Project Area
The Applicant proposes constructing a 230 kV transmission line from the Noble Flat Hill Windpark I project substation located at 70th Avenue North and 120th Street North, northeast of Glyndon in Clay County, Minnesota, to a new switching station along 50th Avenue South (Highway 12), southeast of Glyndon, Minnesota, on the OTP Sheyenne-Audubon 230 kV transmission line. The Proposed Project area includes portions of the Townships of Moland, Spring Prairie, Glyndon, and Riverton in Clay County, Minnesota. (See attached map.)

Project Description
The Applicant proposes to construct the Noble Flat Hill Windpark I 230 kV transmission line, substation and switching station in Clay County, Minnesota. Depending on the final determined route, the proposed transmission line will cover a distance of approximately 9.9 to 11.5 miles. The Proposed Project would be constructed to capture energy generated by the Noble Flat Hill Windpark I, a planned 201 MW facility located in Clay County, Minnesota, and connect to the existing OTP Sheyenne-Audubon 230 kV transmission line southeast of Glyndon, Minnesota. Easements would be acquired by the Applicant for right-of-way along the route.

The new project substation within the Noble Flat Hill Windpark I in Clay County, Minnesota, would occupy approximately 2.5 acres. The proposed switching station that would be constructed along the existing OTP Sheyenne-Audubon 230 kV transmission line would be located at one of two alternative locations, based on the final determined route for the Proposed Project, and occupy approximately six acres. Parcels for the project substation and the switching station would be acquired by the Applicant.

Regulatory Process and Procedures

High voltage transmission lines with a voltage above 200 kV are required to undergo the Full Review Process under Minnesota Rule 7849.5200-5340 and Minnesota Statute 216E.04. Under the Full Review Process, an applicant is required to present a proposed and an alternative route.

Under this process, the Office of Energy Security (OES) Energy Facility Permitting (EFP) staff conducts a public information and scoping meeting and prepares an Environmental Impact Statement (EIS). A contested case hearing is required.

Route permit applications under the full review process must provide specific information about the proposed project, applicant, environmental impacts, alternatives and mitigation measures (Minnesota Rule 7849.5220). The Commission may accept an application as complete, reject an application and require additional information to be submitted, or accept an application as complete upon filing of supplemental information (Minnesota Rule 7849.5230).

The permit review process begins with the determination by the PUC that the application is complete, allowing staff to initiate the public participation and environmental review processes. The PUC has one year to reach a final decision from the time the application is accepted (Minnesota Rule 7849.5340).

Public Advisor

Upon acceptance of an application for a site or route permit, the Commission must designate a staff person to act as the public advisor on the project (Minnesota Rule 7849.5250). The public advisor is someone who is available to answer questions from the public about the permitting process. In this role, the public advisor may not act as an advocate on behalf of any person.

The Commission can authorize the OES to name a member from the EFP staff as the public advisor or assign a PUC staff member.

Advisory Task Force

The Commission has the authority to appoint an advisory task force (Minnesota Statute 216E.08). An advisory task force comprises representatives of local governmental units and potentially, other interested local persons. A task force can be charged with identifying additional routes or specific impacts to be evaluated in the EA and terminates when the OES Director issues an EA scoping decision.

The PUC is not required to assign an advisory task force for every project. However, if the Commission does not name a task force, Minnesota Rule 7849.5270 allows a citizen to request appointment of a task force. The PUC would then need to determine at its next meeting if a task force should be appointed or not. The decision whether to appoint an advisory task force does not need to be made at the time of accepting the application; however, it should be made as soon as practicable to ensure its charge can be completed prior to an EIS scoping decision by the OES Director.

Environmental Review
Applications for route permits are subject to environmental review, which is conducted by OES EFP staff under Minnesota Rule 7849.5300.

Public Hearing
Upon completion of the draft EIS, a public hearing will be held pursuant to Minnesota Statute 216E.03, subd. 6 and Minnesota Rule 7849.5330. All hearings for designating a route under the full process need tol be conducted by an administrative law judge from the Office of Administrative Hearings pursuant to the contested case procedures of Minnesota Statutes and Minnesota Rules Chapter 1405. Members of the public have an opportunity to speak at the hearings, present evidence, ask questions, and submit comments.

OES EFP Staff Analysis and Comments

OES EFP staff reviewed the Noble route permit application and concludes that the application meets the content requirements of Minnesota Rule 7849.5220. Staff recommends the PUC accept the Application with the understanding that if additional information is requested by the OES EFP staff, these requests will be addressed promptly. The Applicants have indicated that they will comply with requests for additional information from the Commission or the OES.

Advisory Task Force
In analyzing the merits of establishing an advisory task force for the project, staff considered four characteristics: size, complexity, known or anticipated controversy, and sensitive resources.

Project Size. At approximately 10-12 miles, the proposed route is a relatively short project, running as directly as possible from a new wind farm to a tap into an existing 230 kV HVTL.

Complexity. The proposed routes are fairly simple and straightforward; one is an attempt to maximize use of an existing railroad right-of-way, the other runs primarily along township road right-of-way. Additionally, the Applicant will be obtaining easements without the authority of eminent domain and is currently pursuing agreements.

Known or Anticipated Controversy. Energy Facility Permitting staff is not aware of any existing or likely controversy in this docket. The Applicants have met with local government officials who have not expressed significant concerns at this point. Staff will seek to educate officials and local residents through the process about the opportunities afforded the public to submit comments and suggestions for alternative routes. Concerns and desires for examination of alternative routes are common in the routing process.

Sensitive Resources. No impacts are anticipated to state or federally listed plant species and wildlife species in the proposed Project area. Several areas of concern were identified by USFWS and MDNR in areas primarily to the east the proposed Project area. Therefore, the Applicant has attempted to avoid the eastern portion of the area originally searched by the USFWS and MDNR. Furthermore, the Applicant has attempted to minimize and avoid impacts by developing routes for the transmission line along existing rights-of-way.

Based on the analysis above, staff concludes that an advisory task force is not warranted in this case. The full permitting process should provide adequate opportunities for the public to identify issues and route alternatives to be addressed in the environmental impact statement. Staff can also assist local landowners and governmental units in understanding the siting and routing process and identifying opportunities for participating in further development of alternative routes or permit conditions. However, Staff concludes that it is not immediately evident that a task force should be precluded, pending undiscovered positions or issues. Therefore, Staff recommendation is to take no action on a task force at time.

PUC Decision Options:

A. Application Acceptance

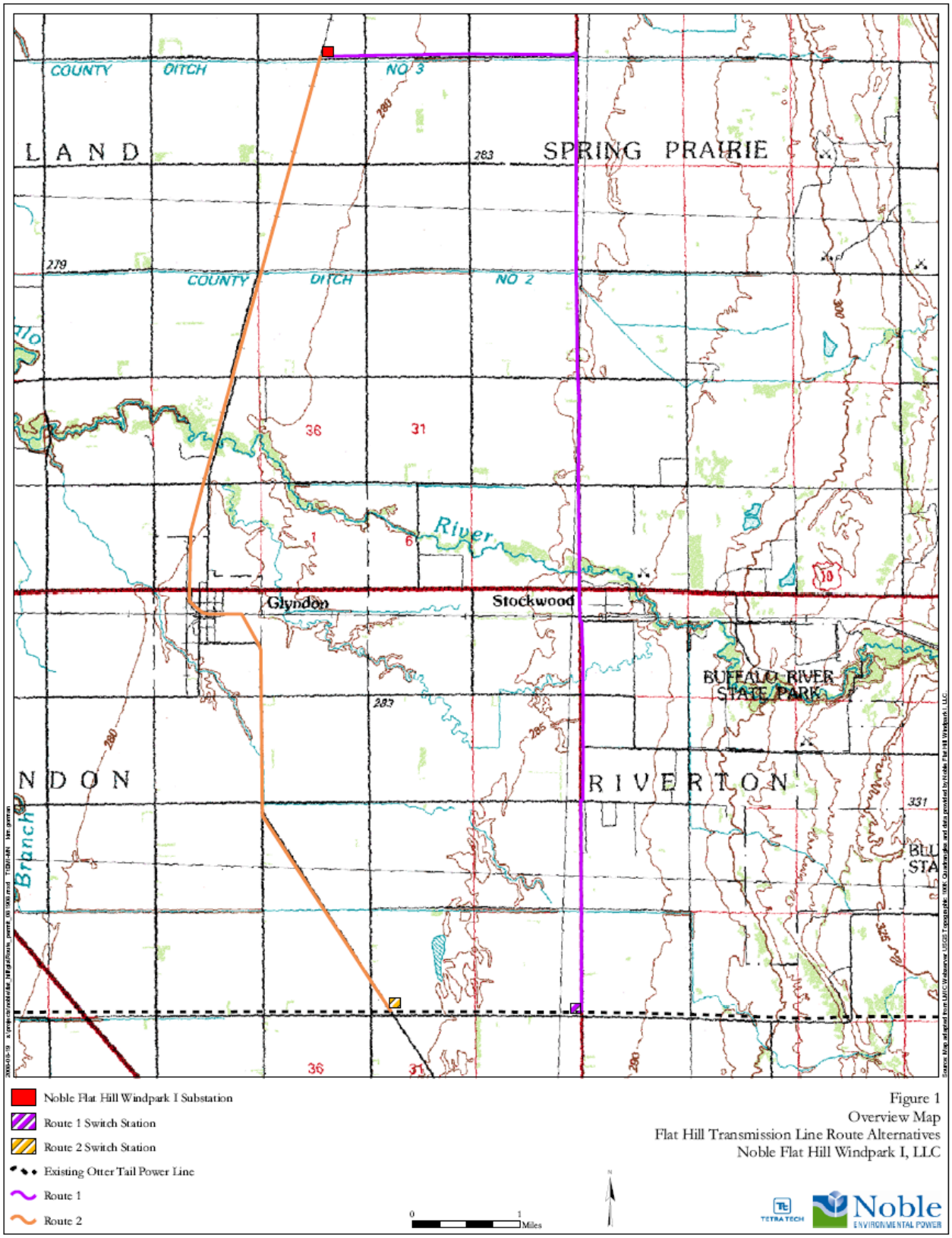
1. Accept the Noble Flat Hill Windpark I 230 kV Transmission Line Project route permit Application as complete and authorize Office of Energy Security Energy Facility Permitting staff to process the application under the full review process in Minnesota Rules 7849.5200-5340 and refer the docket to the Office of Administrative Hearings to hold a contested case proceeding pursuant to Minn. Rule Chapter 1405.
2. Reject the route permit application as incomplete and issue an order indicating the specific deficiencies to be remedied before the Application can be accepted.
3. Find the Application complete upon the submission of supplementary information.
4. Make another decision deemed more appropriate.

B. Public Advisor

1. Authorize the Office of Energy Security Energy Facility Permitting staff to name a public advisor in this case.
2. Appoint a PUC staff person as public advisor.
3. Make another decision deemed more appropriate.

C. Advisory Task Force

1. Authorize Office of Energy Security Energy Facility Permitting staff to establish an advisory task force and develop a proposed structure and charge for the task force.
2. Determine that an advisory task force is not necessary.
3. Take no action on an advisory task force at this time.
4. Make another decision deemed more appropriate.

OES EFP Staff Recommendations: Staff recommends options A1, B1 and C3

Attachment A: Overview Map