



**BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION
SUPPLEMENTAL
COMMENTS AND RECOMMENDATIONS OF THE
MINNESOTA OFFICE OF ENERGY SECURITY
ENERGY FACILITY PERMITTING STAFF**

DOCKET No. IP6701/WS-08-1233

Meeting Date: November 20, 2009.....Agenda Item # ____

Company: **Goodhue Wind, LLC (Goodhue Wind, National Wind)**

Docket No. **IP6701/WS-08-1233**

In the Matter of the Amended Application of Goodhue Wind, LLC, for a Large Wind Energy Conversion System (LWECS) Site Permit for the 78 megawatt (MW) Goodhue Wind Project in Goodhue County.

Issue(s): Should the Commission vary Minn. Rules, part 7854.0800 to allow more time for a preliminary determination on whether a permit should be issued or denied for a Large Wind Energy Conversion System?

OES Staff: Larry B. Hartman.....651-296-5089

Relevant Documents

Goodhue Wind, LLC Amended Site Permit ApplicationOctober 20, 2009

The enclosed materials are the work papers of the Office of Energy Security (OES) Energy Facility Permitting Staff (EFP). 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).

See eDocket filings (08-1233) at <https://www.edockets.state.mn.us/EFiling/search.jsp>, or the PUC website at: <http://energyfacilities.puc.state.mn.us/Docket.html?Id=25631> for project related documents.

Statement of the Issues

Should the Commission vary Minnesota Rule 7854.0800 to allow more time to determine whether a permit may be issued or should be denied for the 78 MW Goodhue Wind Project in Goodhue County?

Introduction and Background

Goodhue Wind, LLC, filed an amended site permit application to construct the proposed 78 megawatt (MW) Goodhue Wind Project in Goodhue County with the Commission on October 20, 2009. Accepting the application as complete initiates a 6 month review process under Minnesota Statutes Chapter 216F and Minnesota Rules Chapter 7854.

Goodhue Wind also filed an application for a Certificate of Need (CON) with the Commission on October 15, 2009 for Goodhue Wind Project, along with a request for exemptions from certain CON requirements. See Docket No. IP6701/CN-09-1186.

Regulatory Process and Procedures

The site permit process and the CON process both provide opportunities for public involvement and review and comment. However, the specific requirements and time frames differ.

Certificate of Need

Under Minnesota Statutes 216B.2421 and 216B.243, subd.2, and Minnesota Rules 7849, a CON is required for the Goodhue Wind Project because it is larger than the 50 MW.

On November 12, 2009, the Commission considered a variance request to toll the time on the exemption requests for Certificate of Need application and a completeness determination. In its Order, dated November 16, 2009, the Commission concluded “the public interest requires extending the time lines for acting on these two filings.” Comments on the exemptions and completeness were due November 16, 2009, and reply comments are due November 27, 2009.

As part of the CON process, public notices are issued and OES EFP conducts a public meeting and prepares an Environmental Report evaluating the human and environmental impacts of the proposed project. A public hearing also is held.

Site Permit

Under Minnesota Statutes Chapter 216F and Minnesota Rules Chapter 7854, a site permit is required for the Goodhue Wind Project because it is larger than the 5 MW. As noted in the EFP Comments and Recommendations on application acceptance, Minnesota Rule 7854.0800

provides that PUC must make a preliminary determination whether a permit may be issued or should be denied within 45 days after acceptance of the application. Once a draft permit is issued, OES EFP initiates the site permit public participation processes, which include public notices, a public meeting, comment period, and the opportunity to request a contested case hearing.

Criteria for a Variance

Minnesota Rule, part 7829.3200 provides that the Commission shall grant a variance to a given rule when it determines that the following three conditions are met:

- A. enforcement of the rule would impose an excessive burden upon the application or others affected by the rule;
- B. granting the variance would not adversely affect the public interest, and
- C. granting the variance would not conflict with standards imposed by law.

OES EFP Staff Analysis and Comments

When the CON and site permit processes are run sequentially, the differing requirements and time frames are of little consequence. However, when they run concurrently, as in the case with Goodhue Wind Project, the differing requirements between the Certificate of Need (CON) rules (Minnesota Rules, chapter 7849) and the LWECS site permit rules (Minnesota Rules, chapter 7854) present barriers with respect to project coordination procedures that limit opportunities to maximize public input. Therefore, OES EFP staff is requesting that the Commission vary the procedural requirement of Minnesota Rule, part 7854.0800 that requires a preliminary determination on whether to issue a draft site permit within 45 days.

For example, without a variance, OES EFP staff believes that the Commission would be placed in the position of having to make a preliminary determination on a draft site permit, before a Commission decision on the completeness of the CON application. Several other potential procedural requirements of the rules (CON and Siting) if not coordinated, may also result in less efficiency and limit the ability of the public to participate in the procedural review required by the CON and siting rules.

Commission action to vary this requirement would afford PUC and OES EFP staffs the opportunity to provide for more timely coordination and sequencing of the CON and LWECS site permit procedural requirements, including combining notice requirements, holding joint public meetings and comment periods and including site permit issues within the scope of the CON public hearing. The result would be greater efficiency and enhanced opportunity for participation.

OES EFP staff believes that this request meets the conditions for granting a variance outlined in Minnesota Rule, part 7829.3200. First, enforcement of the rule would impose an excessive burden on the Commission, its staff, and the OES EFP staff, and other interested persons because of the short time available between application review and the time in which a draft site permit must be addressed by the Commission and because of sequencing and timing issues between the CON procedural requirements and the site permit review requirements for LWECS projects.

Second, the public interest would be better served by allowing sufficient time for agency completeness review of the site permit application and by providing for proper sequencing and review under the CON and site permit review procedural requirements, which can be better coordinated by the granting of a variance request.

Third, OES EFP staff believes that an extension, if granted, would not conflict with standards imposed by law.

NOTE: OES EFP staff believes no one is opposed to tolling the time; however, the Commission should offer parties or interested person the opportunity for oral comment at the Commission meeting.

Commission Supplemental Decision Option

D. Variance Request

1. Grant a variance to Minnesota Rules, part 7854.0800 to extend the period for the Commission to make a preliminary determination on whether a permit may be issued or should be denied for an unspecified, but reasonable period of time.
2. Make some other decision deemed more appropriate.
3. Deny the request for a variance.

OES EFP Staff Recommendation: Staff recommends option D.1.

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Office of Energy Security
Supplemental Comments and Recommendations**

Docket No. IP6701/WS-08-1233

Dated this **18th** day of **November, 2009**

/s/Sharon Ferguson

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OFF_SL_8-1233_1	Carol	Overland	overland@legalectric.org	Legalelectric, Inc.	P.O. Box 176 Red Wing, MN 55066	Paper Service	No
OFF_SL_8-1233_1	Jack	Levi		Goodhue Wind LLC	Suite 525 3033 Excelsior Blvd. Minneapolis, MN 55416	Paper Service	No
OFF_SL_8-1233_1	Joe	Sedarski	N/A	Westwood Professional Services	7699 Anagram Drive Eden Prairie, MN 55344	Paper Service	No
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