

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

David Boyd
J. Dennis O'Brien
Phyllis Reha
Thomas Pugh
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

Leon Steinberg
Goodhue Wind, LLC
3033 Excelsior Boulevard, Suite 525
Minneapolis, MN 55416

SERVICE DATE: November 30, 2009

DOCKET NO. IP-6701/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

The above entitled matter has been considered by the Commission and the following disposition made:

Accepted the Goodhue Wind Project Site Permit Application for a Large Wind Energy Conversion System with the condition that Goodhue Wind, LLC, will provide additional information as requested by the Commission and the Office of Energy Security for the Goodhue Wind Project.

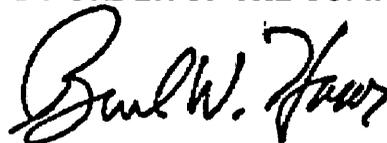
Authorized the Minnesota Office of Energy Security Energy Facilities Permitting staff to name a public advisor for this project.

The Commission finds that a Certificate of Need is required.

Granted 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.

The Commission agrees with and adopts the recommendations of the Office of Energy Security which are attached and hereby incorporated in the Order.

BY ORDER OF THE COMMISSION



Burl W. Haar
Executive Secretary

(S E A L)

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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

**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 # 6

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 Public Utilities Commission (Commission) accept the Amended Application of Goodhue Wind, LLC, for a Large Wind Energy Conversion System as complete and appoint a Public Advisor?

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).

Documents Attached

1. Site Map

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 accept, conditionally accept, or reject the amended application of Goodhue Wind, LLC, for a Large Wind Energy Conversion System (LWECS) site permit as complete for the 78 MW Goodhue Wind Project in Goodhue County? If the Application is accepted, should the Commission appoint a Public Advisor?

Introduction and Background

Goodhue Wind, LLC, has submitted an amended site permit application to construct the proposed 78 megawatt (MW) Goodhue Wind Project in Goodhue County. Goodhue Wind filed its amended application for the Goodhue Wind Project with the Commission on October 20, 2009.

Initially, Goodhue Wind filed its application on October 24, 2008, and then on December 15, 2008, Goodhue filed a letter indicating that it was going to amend its application and requested that no action be taken until an amended site permit application is filed. See eDockets 08-1233 (Document # [5669137](#)).

Project Location

The proposed Goodhue Wind Project will be located in central Goodhue County, on agricultural land in Belle Creek, Goodhue, Minneola, Vasa townships and just west of the city of Goodhue, as shown on the accompanying aerial photo. Goodhue Wind has stated in its application that it presently has 10,200 acres under easement agreement within the proposed 32,684 acre project boundary. The acreage under agreement may be large enough large to accommodate the proposed LWECS project. If not, additional easements will be needed.

Project Description

The Project for which a permit is being requested includes the following associated facilities:

1. A wind turbine layout consisting of 30 to 52 turbines (depending on the turbine specifications), ranging in size from 1.5 to 2 MW, with a total nameplate project capacity of up to 78 MW. Goodhue Wind is using the GE General Electric 1.5 MW series wind turbine and the Repower 2.0 MW machine as a representative turbine for the 2.0 MW series wind machine;
2. Gravel access roads;
3. Electrical collection system, project substation(s) and permanent meteorological towers; and

4. Operations and maintenance building located next to the project substation.

The Applicant's goal is to complete the construction of the Project and achieve commercial operation prior to December 31, 2010.

Regulatory Process and Procedures

A site permit from the Commission is required to construct a Large Wind Energy Conversion System, 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. The Minnesota Wind Siting Act is found at Minnesota Statutes Chapter 216F. The rules to implement the permitting requirement for LWECS are in Minnesota Rules Chapter 7854.

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. Goodhue Wind has applied for a CON. See Docket No. IP6701/CN-09-1186.

Site Permit Application Contents

The required contents of a site permit application are specified in Minnesota Rule 7854.0500. These information requirements include but are not limited to applicant background information, certificate of need compliance, compliance with state policy, proposed site maps, wind characteristics, turbine locations, discussion of wind rights, project design, associated facilities, environmental impacts, project construction, project operation, costs, schedules, energy projections and decommissioning and restoration.

Application Acceptance

Application acceptance is guided by Minnesota Rules 7854.0600. The Commission may elect to accept, conditionally accept, or reject the application. If the Commission conditionally accepts or rejects an application, the Commission must advise the Applicant of the deficiencies in the application and the manner in which the deficiencies can be addressed.

Within 15 days of LWECS site permit application acceptance, the Applicant is required to provide notice of application acceptance. In addition to publishing this notice in a newspaper of general circulation in each county, the notice is distributed to the county board, each city council and each township board in each county where the LWECS is proposed to be located. This notice is also published in the *EQB Monitor*, and posted on eDockets and on the PUC's energy facility permitting web page. In practice this notice is developed by the Applicant, with assistance from OES staff to ensure that the notice meets the requirements and intent of Minnesota Rules 7854.0600

As a part of the notice requirements of Minn. Rule 7854.0600, the Applicant must provide a copy of the accepted application to each landowner within the site and to anyone on request. The Applicant is also required to distribute the accepted application to the Minnesota Historical Society, the regional development commission(s) within which the LWECS is proposed to be located, the auditor of each county and the clerk of each city and township in which the LWECS is proposed to be located. The auditors and clerks are to retain the application and make it

available for public inspection on request. The Applicant also provides a copy of the application to anyone requesting a copy. The Applicant is responsible for maintaining the application distribution list. In practice, EFP staff also distributes or has the Applicant distribute copies of the application accompanied by a cover memorandum requesting comments on the application or the Project, to technical representatives from state agencies (Pollution Control Agencies, Department of Natural Resources, Minnesota Department of Transportation, Department of Employment and Economic Development, Board of Water and Soil Resources) that may have permitting or review authority over the Project.

Public Advisor

Minnesota Rule 7854.0700 states: “Upon acceptance of an application for a site permit, the PUC shall designate a staff person to act as the public advisor on the project.” The Commission can authorize OES to name a staff member from the EFP staff as the public advisor or assign a Commission staff member.

Preliminary Determination on Draft Site Permit

Minnesota Rule 7854.0800 states that: “Within 45 days after acceptance of the application by the PUC, the PUC shall make a preliminary determination whether a permit may be issued or should be denied. If the preliminary determination is to issue a permit, the PUC shall prepare a draft site permit for the project. The draft site permit must identify the permittee, the proposed LWECS, and proposed permit conditions.”

Issuing a draft site permit does not confer an authority to construct an LWECS. The Commission may change, amend or modify the draft site permit in any respect before final issuance or may deny the site permit at a later date. EFP staff anticipates requesting Commission consideration of issuance of a draft site permit for this project in January 2010.

Public Participation Process

Public participation in the LWECS site permitting process is guided by Minnesota Rule 7854.0900. The Commission provides public notice of the availability of the draft site permit. The notice is required to include:

- Applicant’s contact information;
- A brief description of the proposed project, including a proposed site map;
- Locations where the application and draft site permit are available for review and information on how to obtain a copy of the application and site permit.
- The role of the public advisor, and how the public advisor may be contacted to obtain more information about the process or the Project;
- Time and place of the public information meeting held by the OES staff;
- The date on which the comment period terminates;
- A statement that during the comment period any person may submit written comments to the Commission on the draft site permit; and
- A statement that a person may request a contested case hearing on the matter.

Notice of draft site permit availability is sent to all persons or agencies who received a copy of the accepted application, published in local newspaper(s), the *EQB Monitor*, and posted on eDockets, and on the Commission's energy facilities permitting web page.

In cases where the Commission elects to issue a draft site permit when the LWECS site permit application is accepted, the notice requirements of application acceptance (Minn. Rule 7854.0600, described above in *Application Acceptance*) can be and are typically combined with the notice requirements of 7854.0900. The project mailing would include a copy of the accepted application, draft site permit and the notice prepared for application acceptance, availability of draft site permit and notice of public meeting.

The public information meeting serves several functions. First, it provides OES EFP staff with the opportunity to provide an overview of the Commission's role in the review and approval of LWECS and associated facilities, and respond to questions or comments about the regulatory review process. Second, it also provides the Applicant with an opportunity to present an overview of its proposed LWECS project. Prior to the public meeting, interested persons and governmental agencies would have received the LWECS application and draft site. Third, the public meeting provides the public with an opportunity to ask questions of the Applicant and EFP staff and offer comments on the application and draft site permit, which serve as the environmental documents for the project.

The rule requires a minimum of 30 days (commencing with the notice of draft site permit availability in the *EQB Monitor*) for any interested person to submit comments on either the site permit application or the draft site permit. The rule also contemplates that the Commission may wish to extend the public comment period to afford the public adequate time to review the application and other pertinent information in order to formulate complete comments on the draft site permit and the Project.

OES EFP Staff Analysis and Comments

The Application has been reviewed by EFP staff pursuant to the requirements of Minnesota Rules Chapter 7854 (Wind Siting Rules). The application provides the information required by Minnesota Rule 7854.0500 in a format that all members of the public can access. Acceptance of the Application will allow staff to initiate the procedural requirements of Minnesota Rules, Chapter 7854.

EFP staff is requesting that the PUC direct the applicant to honor requests for additional information as necessary to facilitate the review process.

It should be noted that numerous residents of Goodhue County, in areas where wind development is being proposed have shown considerable interest and expressed a variety of concerns regarding wind project development through several organized public meetings and public forums and numerous written comments submitted during the comment period on the Commission's Investigation into LWECS Permit Conditions on Setbacks Docket No. E-999/CI-09-845.

Commission Decision Options

A. Application Acceptance

1. Accept the Goodhue Wind Project Site Permit Application for a Large Wind Energy Conversion System with the condition that Goodhue Wind, LLC, will provide additional information as requested by the Commission and the Office of Energy Security for the Goodhue Wind Project.
2. Reject the 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

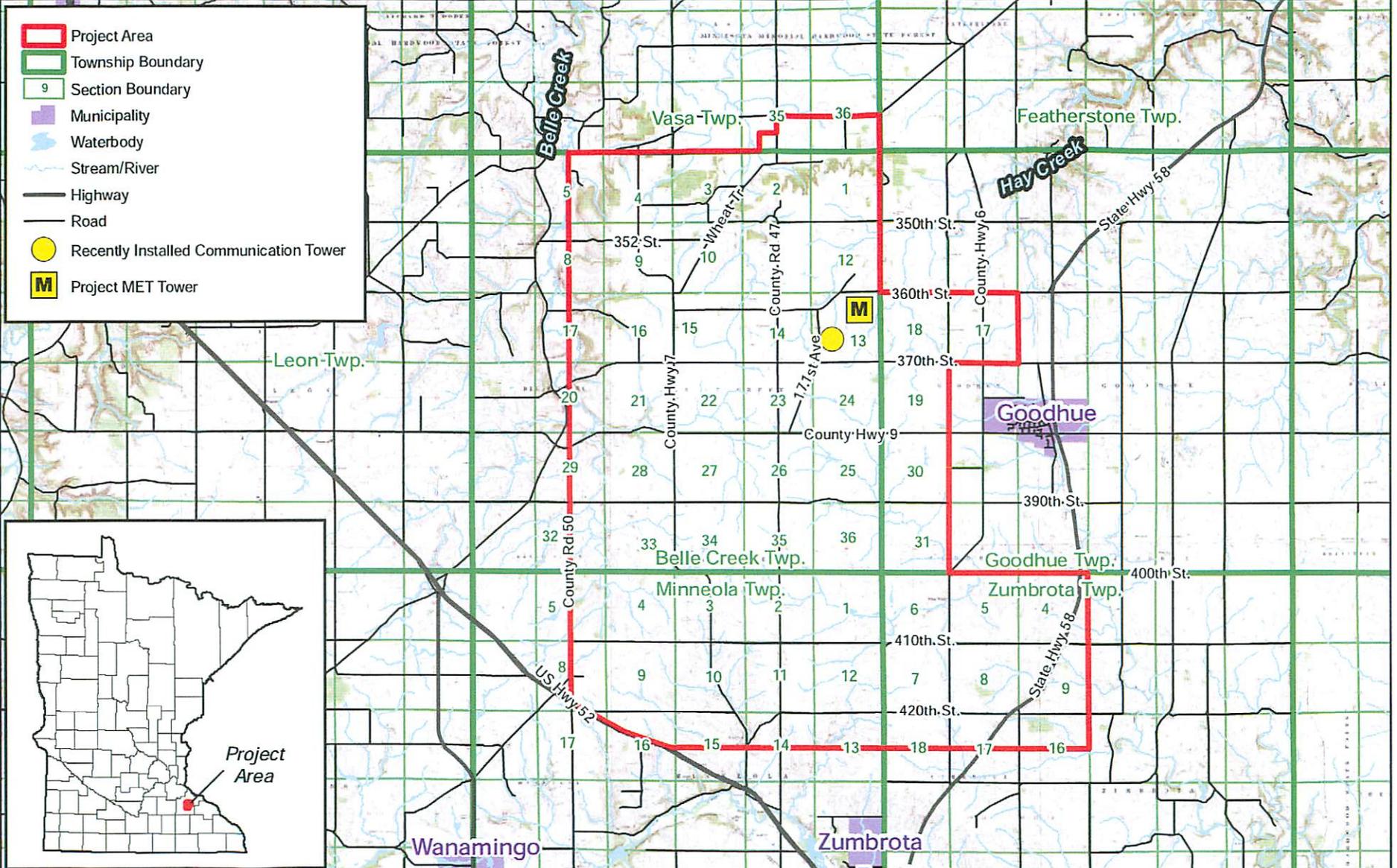
1. Authorize the Minnesota Office of Energy Security Energy Facilities Permitting staff to name a public advisor for this project.
2. Appoint a Commission staff person as public advisor.
3. Make another decision deemed more appropriate.

C. Certificate of Need

1. Find that a Certificate of Need is required.
2. Make no findings regarding the Certificate of Need.
3. Make some other decision deemed more appropriate.

DOC EFP Staff Recommendation: Staff recommends option A1, B1 and C1.

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Data Source(s): MnDNR PLSS (1980), MnDOT Basemap (2004), MnDOT Highway Map Series (2002), USGS NHD, USGS DRG (2002), USFWS NWI (1991), ESRI Political Boundaries (2006), Westwood (2009).

Goodhue Wind Project

Goodhue County, Minnesota

Project Location Map

EXHIBIT A-2



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**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 to for a preliminary determination on whether a permit should be issued or denied for a Large Wind Energy Conversion System?

OES Staff: Larry B. Hartman651-296-5089

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 deemed more appropriate.
3. Deny the request for a variance.

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

STATE OF MINNESOTA)
)SS
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

I, Robin Benson, being first duly sworn, deposes and says:

That on the 30th day of November, 2009 she served the attached
ORDER.

MNPUC Docket Number: IP-6701/WS-08-1233

- XX By depositing in the United States Mail at the City of St. Paul, a true and correct copy thereof, properly enveloped with postage prepaid
- XX By personal service
- XX By inter-office mail

to all persons at the addresses indicated below or on the attached list:

Tricia DeBleeckere
Docketing - OES
Julia Anderson - OAG
John Lindell- OAG

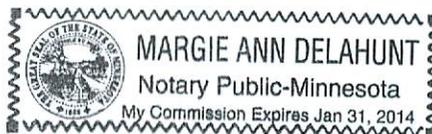
Robin Benson

Subscribed and sworn to before me,

a notary public, this 30th day of

November, 2009

Margie DeLahunt
Notary Public



Service List Name	First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret
OFF_SL_8-1233_1	Burl W.	Haar	burl.haar@state.mn.us	MN Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	Yes
OFF_SL_8-1233_1	Carol	Overland	overland@legalelectric.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
OFF_SL_8-1233_1	John	Lindell	agorud.ecf@state.mn.us	OAG-RUD	900 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes
OFF_SL_8-1233_1	Julia	Anderson	Julia.Anderson@state.mn.us	MN Office Of The Attorney General	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes
OFF_SL_8-1233_1	Leon	Steinberg	N/A	Goodhue Wind, LLC	3033 Excelsior Boulevard Suite 525 Minneapolis, MN 55416	Paper Service	No
OFF_SL_8-1233_1	Marie and Bruce	McNamara	macland@sleepyeyetel.net	-	35815 165th Ave. Goodhue, MN 55027	Paper Service	No
OFF_SL_8-1233_1	Sharon	Ferguson	sharon.ferguson@state.mn.us	State of MN - DOC	85 7th Place E Ste 500 Saint Paul, MN 551012198	Electronic Service	Yes