

**STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

Docket No. IP-6828/WS-09-1197

In the Matter of the Application of Pleasant Valley Wind LLC For a Site Permit For the 300 MW Pleasant Valley Project in Dodge and Mower Counties

**PETITION FOR MODIFICATION OR
AMENDMENT TO SITE PERMIT**

INTRODUCTION

On October 27, 2010, the Minnesota Public Utilities Commission (“Commission”) issued a Site Permit to Pleasant Valley Wind LLC (“Pleasant Valley Wind”) for the 301 MW Pleasant Valley Wind Project located in Dodge and Mower Counties, Minnesota (“Site Permit”).

The Site Permit requires that certain actions be taken within two years of the date of the issuance of the permit. First, Section 10.2 requires that a power purchase agreement (“PPA”) or other enforceable mechanism for the sale of electricity be obtained. Second, Section 10.3 requires that the pre-construction surveys required under the permit be completed and construction commenced within two years of issuance of the permit. If either of these requirements is not met, the Permittee is required to advise the Commission of the reasons for not meeting the requirement or requirements, and the Commission may determine whether the permit should be amended or revoked.

As the two-year time period under the permit will expire on October 26, 2012, Pleasant Valley Wind hereby advises the Commission that a PPA or other enforceable mechanism has not been obtained for the Pleasant Valley Wind Project (“Project”), the pre-construction surveys for the Project have not been completed, and construction of the Project has not commenced. The reasons for not meeting these Site Permit requirements are described further herein.

With this Petition, Pleasant Valley Wind hereby requests that the Commission amend the Site Permit to allow additional time to obtain a PPA or other enforceable mechanism, complete pre-construction surveys, and commence construction of the Project.

AMENDMENT

To allow Pleasant Valley Wind the additional time needed to fulfill the requirements of the Site Permit, Pleasant Valley Wind requests the Commission amend the issuance date of the Site Permit to the date of approval of this proposed amendment. By amending the issuance date in this way, Pleasant Valley Wind will have another two years to obtain a PPA or other enforceable mechanism, complete pre-construction surveys, and commence construction of the Project. Furthermore, amending the issuance date will also maintain a 30-year Site Permit term, as

Section 12 of the Site Permit specifies that the permit will expire 30 years after the date the permit is approved and adopted, i.e., 30 years from the issuance date.

The Commission has specific authority to amend the Site Permit, and has granted such amendments to other projects. In addition to the language in Section 11.2 of the Site Permit providing for modification of permit conditions, the Commission also has specific authority to modify or amend a site permit for a wind project pursuant to Minnesota Statutes section 216F.04(d) and Minnesota Rules Part 7854.1300, subpart 2.

Indeed, the Commission has amended site permits for wind projects to allow additional time to comply with PPA, pre-construction, and construction requirements in the permits, modifying the issuance date to allow for an additional two year period from the date of the amendment, and, where necessary, modifying the expiration date of the permit to maintain a 30 year permit life. *See In the Matter of the Site Permit issued to Comfrey Wind Energy, LLC for a Large Wind Energy Conversion System in Brown and Cottonwood Counties*, MPUC Docket No. IP-6630/WS-07-31, March 11, 2011 Order (approving an extension of time of two years to commence construction for reasons related to MISO study process delays); *In the Matter of the Site Permit of Glacial Ridge Wind, LLC for a 20 Megawatt Large Wind Energy Conversion System in Pope County*, MPUC Docket No. IP-6850/WS-07-1073, June 1, 2011 Order (approving a two-year extension); *In the Matter of the Site Permit Issued to Lakeswind Power Partners, LLC for up to a 60 Megawatt Large Wind Energy Conversion System for the Lakeswind Power Plan in Becker, Clay and Ottertail Counties*, MPUC Docket No. IP-6603/WS-08-1149, September 6, 2011 Order (approving amendments including a two-year extension to commence construction); and *In the Matter of the Site Permit for Bear Creek Wind Partners, LLC for a 47.5 Megawatt Large Wind Energy Conversion System in Todd and Otter Tail Counties*, PUC Docket No. IPP-6629/WS-07-297, September 28, 2011 Order (approving a two-year extension of time).

GOOD CAUSE EXISTS TO AMEND THE SITE PERMIT

Good cause exists to amend the Site Permit to allow additional time needed to fulfill the requirements of the Site Permit. The Commission may amend the Site Permit at any time “if there is good cause to do so.” Minn. R. 7854.11300, subp. 2. Similar to the other extensions of site permits previously granted that are referenced above, Pleasant Valley Wind experienced significant delays in the Midwest Independent Transmission System Operator, Inc. (“MISO”) interconnection process that have impacted Pleasant Valley Wind’s ability to obtain a PPA or other enforceable mechanism to sell power and to commence construction.

As other developers have encountered and brought to the attention of the Commission, developments in the MISO generator interconnection process have created significant delay for many projects, including the Project. The Project, MISO Project Number G762, entered the MISO queue on March 14, 2007. Since entering the generator interconnection queue over five (5) years ago, Pleasant Valley Wind has been “transitioned” to new generator interconnection processes twice, illustrating fundamental problems with the MISO interconnection process that are entirely beyond Pleasant Valley Wind’s control. While each queue reform market design was designed to improve the interconnection process, fundamental problems remain – prejudicing the ability of interconnection customers to execute on their business plans. The Federal Energy Regulatory

Commission acknowledged problems in MISO's interconnection queue in its recent Order accepting MISO's most recent changes to the interconnection process, stating:

Based on the evidence provided by MISO, it appears that MISO is experiencing several challenges in administering its queue. We believe that such evidence justifies MISO's proposed tariff changes, subject to certain conditions established further below. First, the evidence supports a finding that MISO continues to experience a substantial backlog in the Definitive Planning Phase of its queue. According to MISO, as of December 1, 2011, there were approximately 32 GW worth of projects in the queue. . . . In addition, it appears that 141 interconnection requests have been in the queue for over three years – 128 of which lie in Minnesota, Iowa, North Dakota and South Dakota.

See Midwest Independent Transmission System Operator, Inc., 138 FERC ¶ 61,233 at 62-63 (2012).

In Pleasant Valley Wind's case, after over five years in the interconnection queue, the Project has yet to receive reliable study results from MISO. In 2007, Pleasant Valley submitted an interconnection request at the Pleasant Valley Substation with MISO. In late 2007, FERC held a technical conference to discuss concerns over the effectiveness of generator interconnection queue management, and by the spring of 2008, MISO had filed a completely revamped interconnection queuing process with FERC ("Initial Queue Reform"). FERC approved the Initial Queue Reform in the summer of 2008. The reforms were intended to eliminate the congestion in the queue and to allow projects that were truly ready to advance to move through the process. However, the reforms were not sufficient, and queue congestion remained a significant problem. The Project transitioned into MISO's new study process, advanced to the definitive planning phase ("DPP") and was part of DPP Cycle 3. After numerous studies and re-studies with highly questionable outcomes and continuous delays, it was clear that there would not be legitimate study results coming out of the process.

By late 2010, MISO realized that the Initial Queue Reform was not working and that they would need to file a whole new set of interconnection queuing rules. MISO stopped meaningful processing of interconnection requests, and instead focused on changing the process. In late 2011, MISO filed a second substantive queue reform. FERC conditionally approved the changes in March of 2012, with final acceptance occurring in the summer of 2012. In August of 2012, MISO transitioned interconnections into their new queuing process.

MISO's new queue reform seems to be working. Of the 37GW that were in the queue (down from a peak of 60GW), 5.8GW remain in the queue, 4GWs of which is wind generation. Understanding that the new queue process would greatly expedite the processing of interconnection requests, RES transitioned the Project's interconnection request into MISO's System Planning and Analysis phase. RES will advance the Project's interconnection request into DPP at the appropriate time based on the Project's expected commercial operation date.

Due to these delays in the interconnection process, it was unfeasible for Pleasant Valley Wind to ascertain all of the capital costs and risks associated with interconnection of the Project with any degree of certainty. The lack of certainty regarding interconnection costs and their effect

on a power purchase price, plus the lack of certainty over interconnection timing, made it impossible for the Project to commit to an off-take arrangement or finalize project financing.

Pleasant Valley Wind, however, continues to actively engage in efforts to secure financing, obtain a PPA and complete pre-construction surveys to meet a revised construction commencement deadline. A two year extension to the Site Permit will provide sufficient time to clear the MISO interconnection process and complete all pre-construction requirements, as Pleasant Valley Wind anticipates completing the MISO interconnection process and entering into a large generator interconnection agreement no later than mid-2014. In addition, granting a two-year extension will not impact the rights of any other parties.

As noted above, the Commission has previously found that good cause exists for a two-year extensions of site permits based on similar justifications relating to the interconnection process, and the Commission should similarly find that good cause exists for an extension in this case. Accordingly, it is appropriate for the Commission to amend the Site Permit as requested herein.

CERTIFICATE OF NEED

Concurrently with this Petition for Amendment of the Site Permit, Pleasant Valley Wind LLC is filing a petition for changes to its Certificate of Need (“CON”) in PUC Docket No. IP-6828/CN-09-937. While the CON has no expiration date, the Commission Order granting the CON indicates an in-service date of Fall 2012. Accordingly, Pleasant Valley Wind is requesting a modification of the in-service date in the CON without recertification. Pleasant Valley Wind proposes that the Commission establish a single comment period for the two petitions and make a final decision on the petitions at the same time.

CONCLUSION

Because good cause exists and for the reasons set forth herein, Pleasant Valley Wind respectfully requests that the Commission grant a two-year extension to the Site Permit for the Pleasant Valley Project.

Dated: October 25, 2012

Respectfully submitted,

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CERTIFICATE OF SERVICE

Susan Hartinger, certifies that on October 25, 2012 she served true and correct copies of the **PETITION FOR MODIFICATION OR AMENDMENT TO SITE PERMIT** upon the following parties via e-filing and/or U.S. Mail:

Person	E-mail Address	Company	Address	Method of Service
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/s/ Susan A. Hartinger
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