

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Application of Prairie Rose Wind, LLC for a Certificate of Need for a 101 MW Wind Project and Related 115 kV Transmission Line in Pipestone and Rock County in Southwestern Minnesota

ISSUE DATE: July 19, 2010

DOCKET NO. IP-6838/CN-10-80

ORDER FINDING APPLICATION SUBSTANTIALLY COMPLETE, INITIATING INFORMAL REVIEW, AND GRANTING VARIANCE

**PROCEDURAL HISTORY**

On May 13, 2010, Prairie Rose Wind, LLC (Prairie Rose Wind or the Applicant) filed an application for a certificate of need for a 101 MW generating facility and associated 115 kV transmission line in Rock and Pipestone Counties, in southwestern Minnesota. The project is a large generation facility as defined by Minn. Stat. § 216B.2421, subd. 2(1). Certificate of need application requirements for generation facilities are governed by Minn. Rules, parts 7849.0240, 7849.0250, and 7849.0270 to 7849.0340.<sup>1</sup>

On June 10, 2010, the Office of Energy Security of the Minnesota Department of Commerce (OES) filed comments, recommending that the application be considered complete upon the submission of specified information required by Minn. Rules, parts 7849.0250, subd. C(9) and 7849.0320, subd. B.

On June 16, 2010, Prairie Rose Wind filed reply comments providing the supplemental information requested by the OES.

On July 8, 2010, the Commission met to consider the matter.

**FINDINGS AND CONCLUSION**

**I. Application Completeness**

OES reviewed Prairie Rose Wind's application to determine the extent to which it fulfilled the requirements of Minnesota Rules, parts 7849.0240 through 7849.0340. The OES recommended that

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<sup>1</sup> On May 14, 2010, the Commission approved a request by the Company for exemption from certain filing requirements.

the Commission find the filing complete upon the submission of the additional information requested. Prairie Rose Wind submitted the information requested on June 16.

The Commission has examined the record and concurs with the parties that with the supplemental information submitted by Prairie Rose Wind as part of its reply comments, the application is substantially complete under the certificate of need statute<sup>2</sup> and rules<sup>3</sup>

## **II. Process for Reviewing the Merits**

Generally applications for a certificate of need are referred to the Office of Administrative Hearings for contested case proceedings to resolve factual disputes. But the Commission also has the discretion to evaluate certificate of need requests using an expedited notice and comment process.<sup>4</sup> At this juncture, there appear to be no contested material facts; future factual disputes appear unlikely; and there are no other factors pointing to a need for contested case proceedings.

The Commission will therefore authorize staff to develop the record and prepare this case for Commission action without contested case proceedings under Minn. Stat. §§ 14.57 *et seq.*, unless those proceedings are later determined to be necessary. Staff will manage the development of the record by establishing necessary comment periods and ensuring compliance with statutory requirements such as the submission of an environmental report and the holding of one or more public hearings.

Under the informal process the Commission still asks the Office of Administrative Hearings to hold at least one public hearing, scheduled in conjunction with Commission staff. The Commission will also take the steps listed below to ensure adequate development of the record:

- Direct the Applicant to cooperate with the OES and with Commission staff to develop the record.
- Ask that the Applicant place a CD or hard copy of the Application for review in a Government Center and/or public library in the vicinity of the project.
- Ask the OES to examine the application and other materials submitted in the case and to submit its analysis of the reasonableness of granting a certificate of need.
- Direct Commission staff to work with the Administrative Law Judge and the staff of the OES in selecting suitable locations for a public hearing on the application.
- Direct the Applicant to work with the OES and with Commission staff to arrange for publication of the notice of the hearings in newspapers of general circulation at least ten days

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<sup>2</sup> Minn. Stat. § 216B.243.

<sup>3</sup> Minn. Rules, Chapter 7849.

<sup>4</sup> Minn. Rules, part 7829.2500, subp. 9.

prior to the hearings; directs that such notice be in the form of visible display ads; and directs that proofs of publication of such ads be obtained from the newspapers selected.

Finally, the certificate of need statute encourages public participation in certificate of need proceedings, requiring at least one hearing to obtain public opinion and requiring the Commission to designate an employee to facilitate citizen participation in the hearing process.<sup>5</sup>

The Commission has designated Bret Eknes, Facilities Planner, to facilitate and coordinate public participation in this proceeding. He may be reached by telephone at (651) 201-2236, by fax at (651) 297-7073, and by e-mail at [Bret.Eknes@state.mn.us](mailto:Bret.Eknes@state.mn.us). His address is Suite 350, 121 7<sup>th</sup> Place East, St. Paul, Minnesota 55101-2147.

### **III. Variance Granted**

Under Minn. Rules, part 7849.0200, subp. 5, the Commission must determine within 30 days whether a certificate of need application is complete. In this case, more than 30 days were required to receive and review comments filed by the OES and supplementary information submitted by the Applicant.

Under Minn. Rules 7829.3200, the Commission may vary any of its rules upon finding that the following conditions have been met:

- (1) Enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- (2) Granting the variance would not adversely affect the public interest; and
- (3) Granting the variance would not conflict with standards imposed by law.

Minn. Rules, part 7829.3200, subp. 1

These conditions have clearly been met in this case, and the Commission will therefore vary the 30-day rule, making the following findings:

- (1) Enforcing the 30-day time line would impose an excessive burden on the Commission, the OES and other interested parties to the proceeding, by jeopardizing the thoroughness of the Commission's decision-making process;
- (2) Varying the 30-day time line would not adversely affect the public interest, but would serve the public interest by allowing adequate review and consideration of the application. Further, Prairie Rose Wind's long-term schedule for the project will accommodate a review period longer than 30 days;

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<sup>5</sup> Minn. Stat. § 216B.243, subd. 4

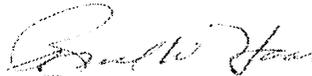
- (3) Varying the 30-day time line would not conflict with any other standards imposed by law.

The Commission will so order.

**ORDER**

1. Prairie Rose Wind's certificate of need application is accepted as substantially complete as of June 15, 2010, the date of its supplemental filing.
2. The Commission directs the use of the informal review process to develop the record, using comment and reply.
3. The Commission delegates to the Executive Secretary the authority to set time lines and perform the other case-management tasks essential to proper development of the record.
4. The Commission hereby varies Minn. Rules, part 7849.0200, subp. 5.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION



Burl W. Haar  
Executive Secretary



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STATE OF MINNESOTA)  
  )SS  
COUNTY OF RAMSEY )

AFFIDAVIT OF SERVICE

I, Margie DeLaHunt, being first duly sworn, deposes and says:

That on the 19th day of July, 2010 she served the attached

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- 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:

Commissioners  
Carol Casebolt  
Peter Brown  
Eric Witte  
Marcia Johnson  
Kate Kahlert  
Bob Cupit  
Bret Eknes  
Tricia Debleeckere  
Mary Swoboda  
DOC Docketing  
AG - PUC  
Julia Anderson - OAG  
John Lindell - OAG

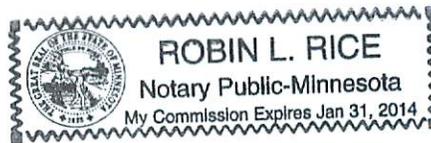
Margie DeLaHunt

Subscribed and sworn to before me,

a notary public, this 19th day of

July, 2010

Robin L. Rice  
Notary Public



First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Julia	Anderson	Julia.Anderson@state.mn.us	Office of the Attorney General-DOC	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	No	OFF_SL_10-80_Official
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