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June 9, 2010

Dr. Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
127 7th Place East, Suite 350
St. Paul, MN 55101-2147

**RE: Comments and Recommendation of the Office of Energy Security Energy
Facility Permitting Staff (Docket No. IP-6843/WS-10-425)**

Dear Dr. Haar:

Attached are the Comments and Recommendation of the Office of Energy Security Energy
Facility Permitting (EFP) Staff:

**In the Matter of the Application of Prairie Rose Wind, LLC for a Large Wind Energy
Conversion System Site Permit for the 101 MW Prairie Rose Wind Farm in Rock and
Pipestone Counties.**

The attachment also includes a project vicinity map.

EFP staff is available to answer any questions the Commission may have.

Sincerely,

David E. Birkholz
EFP Staff

Attachment

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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. IP-6830/WS-10-425

Meeting Date: June 17, 2010Agenda Item # 2

Company: **Prairie Rose Wind, LLC**

Docket No. **IP-6843/WS-10-425**

In the Matter of the Application of Prairie Rose Wind, LLC for a Large Wind Energy Conversion System Site Permit for the 101 MW Prairie Rose Wind Farm in Rock and Pipestone Counties.

Issue(s): Should the Public Utilities Commission accept the Application of Prairie Rose Wind, LLC for a Large Wind Energy Conversion System as complete and appoint a Public Advisor?

Should the Commission vary Minn. Rule 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?

EFP Staff: David E. Birkholz651-296-2878

Relevant Documents

Prairie Rose Wind Farm Site Permit Application.....May 13, 2010

The enclosed materials are the work papers of the Office of Energy Security 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. Project Vicinity Map

See eDocket filings (10-49) at <https://www.edockets.state.mn.us/EFiling/search.jsp>, or the PUC website at: <http://energyfacilities.puc.state.mn.us/Docket.html?Id=28286> for project related documents.

Statement of the Issues

Should the Public Utilities Commission (Commission) accept the application of Prairie Rose Wind, LLC (Applicant or Prairie Rose) for a Large Wind Energy Conversion System (LWECS) site permit as complete for the 101 megawatt (MW) Prairie Rose Wind Farm in Rock and Pipestone counties? If the Application is accepted, should the Commission appoint a Public Advisor?

Should the Commission vary Minn. Rule 7854.0800 to allow more time to determine whether a draft permit may be issued for the Prairie Rose Wind Farm (Project)?

Introduction and Background

Prairie Rose Wind, LLC has submitted a site permit application to construct the proposed 101 MW Prairie Rose Wind Farm in Rock and Pipestone counties. Prairie Rose Wind, LLC is a wholly owned subsidiary of Geronimo Wind Energy.

Project Location

The proposed site is located west of Hardwick and south and east of Jasper in Rock and Pipestone counties. The project is proposed to be constructed in Denver, Rose Dell and Spring Water townships in Rock County and Elmer and Eden townships in Pipestone County (see attached map). The Project Boundary encompasses approximately 35,335 acres, of which approximately 14,000 acres are under site control.

Project Description

The project for which a permit is being requested includes the following:

1. A wind turbine layout consisting of up to 67 turbines, depending on turbine specifications; the application describes the possible use of General Electric 1.5 MW, Vestas 1.8 MW or Siemens 2.3 MW wind turbines;
2. Associated facilities, including gravel access roads, an electrical collection system, permanent meteorological towers, one step-up substation, a Sonic (SODAR) or Light (LIDAR) Detection and Ranging unit and an O&M building.

The project has an associated 24-mile 115 kV transmission system that would connect to the Split Rock Substation near Brandon, South Dakota (see IP-6839/TL-10-134).

The Applicant's goal is to complete the construction of the project and achieve commercial operation between the third calendar quarter of 2011 and the first calendar quarter of 2012.

Regulatory Process and Procedures

Commission review of an LWECS application entails two separate processes: the Certificate of Need (CN) and the site permit. Pursuant to Minn. Rule 7854.0500, subp. 2A, the Commission shall not issue a site permit for which a CN is required until the CN has been issued by the Commission. The following provides an overview of the CN and site permit processes.

Certificate of Need Process

A CN is required for the Prairie Rose Wind Farm because, as a 101 MW LWECS, it qualifies as a “large energy facility” as defined by Minnesota Statutes section 216B.2421, subdivision 2(1). The Applicant applied for a CN (IP-6839/CN-10-80), on May 13, 2010, simultaneous to filing its site permit application. The Commission is currently soliciting comments on the completeness of the CN Application. Initial comments will be accepted through Friday, June 11, 2010, and replies through Monday, June 21, 2010.

As part of the CN process, public notices are issued and EFP staff conducts a public scoping meeting and prepares an Environmental Report evaluating the human and environmental impacts of the proposed project. A public hearing is then held by the Office of Administrative Hearings.

Site Permit Process

A site permit from the Commission is required to construct a LWECS, 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 requirements for LWECS are in Minn. Rule 7854. Prairie Rose Wind filed a site permit application for the wind farm with the Commission on May 13, 2010.

Site Permit Application Contents

The required contents of a site permit application are specified in Minn. Rule 7854.0500. These information requirements include, but are not limited to, applicant background information, CN 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 Minn. Rule 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 posted on eDockets and on the Commission’s energy facility permitting web page. In practice this notice is developed by the Applicant with assistance from EFP staff to ensure that the notice meets the requirements and intent of Minn. Rule 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. 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. In practice, 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 and the project, to technical representatives from state agencies (Pollution Control Agency, Department of Natural Resources, Department of Transportation, Department of Employment and Economic Development, Board of Water and Soil Resources, Department of Agriculture, and Department of Health) that may have permitting or review authority over the project.

Public Advisor

Minn. Rule 7854.0700 states that upon acceptance of a site permit application, the Commission shall designate a staff person to act as the public advisor on the project. The Commission can authorize EFP 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

Minn. Rule 7854.0800 states, “Within 45 days after acceptance of the application by the commission, the commission 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 commission 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.

Public Participation Process

Public participation in the LWECS site permitting process is guided by Minn. Rule 7854.0900. The Commission provides notice of the availability of the draft site permit. The notice includes:

- 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 EFP 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) and the *EQB Monitor*, and posted on eDockets and on the Commission's energy facilities permitting web page.

The public information meeting serves several functions. First, it provides 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 to respond to questions or comments about the regulatory review process. Second, it 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 opportunity to review the LWECS application and draft site permit. 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 after publication of 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.

County Ordinance Standards for LWECS

Minnesota Statutes section 216F.08 authorizes counties to assume responsibility for processing permit applications for LWECS with a combined nameplate capacity of less than 25,000 kilowatts. Neither Rock nor Pipestone counties have adopted ordinances pursuant to Minnesota Statutes section 216F.08. Both counties have ordinances that govern the siting of small wind energy conversion systems (under 5,000 kilowatts). EFP staff will review the county ordinances to assess local restrictions and solicit comments from the two counties during the application review process.

Prairie Rose states in its application it is committed to working with the counties to address local concerns and obtain applicable local permits. Because the counties' ordinances do not apply to LWECS, Prairie Rose has followed the state's general siting guidelines in preparing this application.

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 Minn. Rule 7854.0500 in a format that all members of the public can access. Acceptance of the application as complete will allow staff to initiate the procedural requirements of Minnesota Rules Chapter 7854.

EFP staff is requesting that the Commission direct the applicant to honor requests for additional information as necessary to facilitate the review process. In addition, staff is requesting that the company make certain changes to maps before distributing the application. In particular, staff would like Prairie Rose to clarify distinctions between project boundaries and controlled areas;

for clarity, area characteristics maps should contain preliminary turbine layouts; and for useful access, maps should be resized to 11 x 17 inches.

Tolling the Time

EFP staff is requesting the Commission vary the procedural requirement of Minn. Rule 7854.0800 that requires a preliminary determination on whether to issue a draft site permit within 45 days to allow additional time. When the CN and site permit processes run concurrently, as in the case with Prairie Rose, the differing requirements between the CN rules (Minn. Rule 7849) and the LWECS site permit rules (Minn. Rule 7854) present barriers with respect to process coordination and public input.

Also, staff seeks to obtain additional information from the Applicant before issuing a draft site permit. Staff would like to review additional site characterization issues that may have an impact on possible permit conditions. Staff would also like to pursue additional discussion with the Applicant concerning specific responses to Minnesota Department of Natural Resources and U.S. Fish and Wildlife Service correspondence. The importance of these additional discussions is to help clarify what studies or surveys may need to be completed prior to permitting as opposed to those necessary prior to construction. The filing of additional materials should help in particular to clarify either the need or extent of surveys related to bats and migratory birds and possible impacts on natural areas.

Minn. Rule 7829.3200 provides that the Commission shall grant a variance to its rules when it determines the following three conditions are met:

- A. enforcement of the rule would impose an excessive burden upon the applicant 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.

First, enforcement of the rule would impose an excessive burden on the Applicant or others affected by the rule because of the short time available between application review and the time when a draft site permit must be addressed by the Commission. The sequencing and timing issues between the CN and site permit procedural requirements for LWECS projects impose an excessive burden on the Commission, its staff, the EFP staff, and other interested persons. Second, granting the variance would not adversely affect the public interest. The public interest would be better served by allowing for more timely coordination and sequencing under the CN and 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 CN public hearing, which would result in greater efficiency and enhanced opportunity for participation. Third, EFP staff believes that an extension, if granted, would not conflict with standards imposed by law.

EFP staff is not aware of any opposition to tolling the time; however, the Commission may wish to offer interested persons the opportunity for oral comment at the Commission meeting.

Commission Decision Options

A. Application Acceptance

1. Accept the Prairie Rose Wind, LLC Site Permit Application for a Large Wind Energy Conversion System as complete with amended maps as directed by Energy Facilities Permitting staff; require Prairie Rose to provide additional information as requested by the Commission and the Energy Facilities Permitting staff for the Prairie Rose Wind Farm.
2. Find the Application complete upon the submission of supplementary information.
3. Reject the Application, describing the deficiencies in the Application and the manner in which the deficiencies can be addressed.
4. Make another decision deemed more appropriate.

B. Public Advisor

1. Authorize the 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. Variance Request

1. Grant a variance to Minn. Rule 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. Deny the request for a variance.
3. Make some other decision deemed more appropriate.

EFP Staff Recommendation: Staff recommends options A1, B1, and C1.

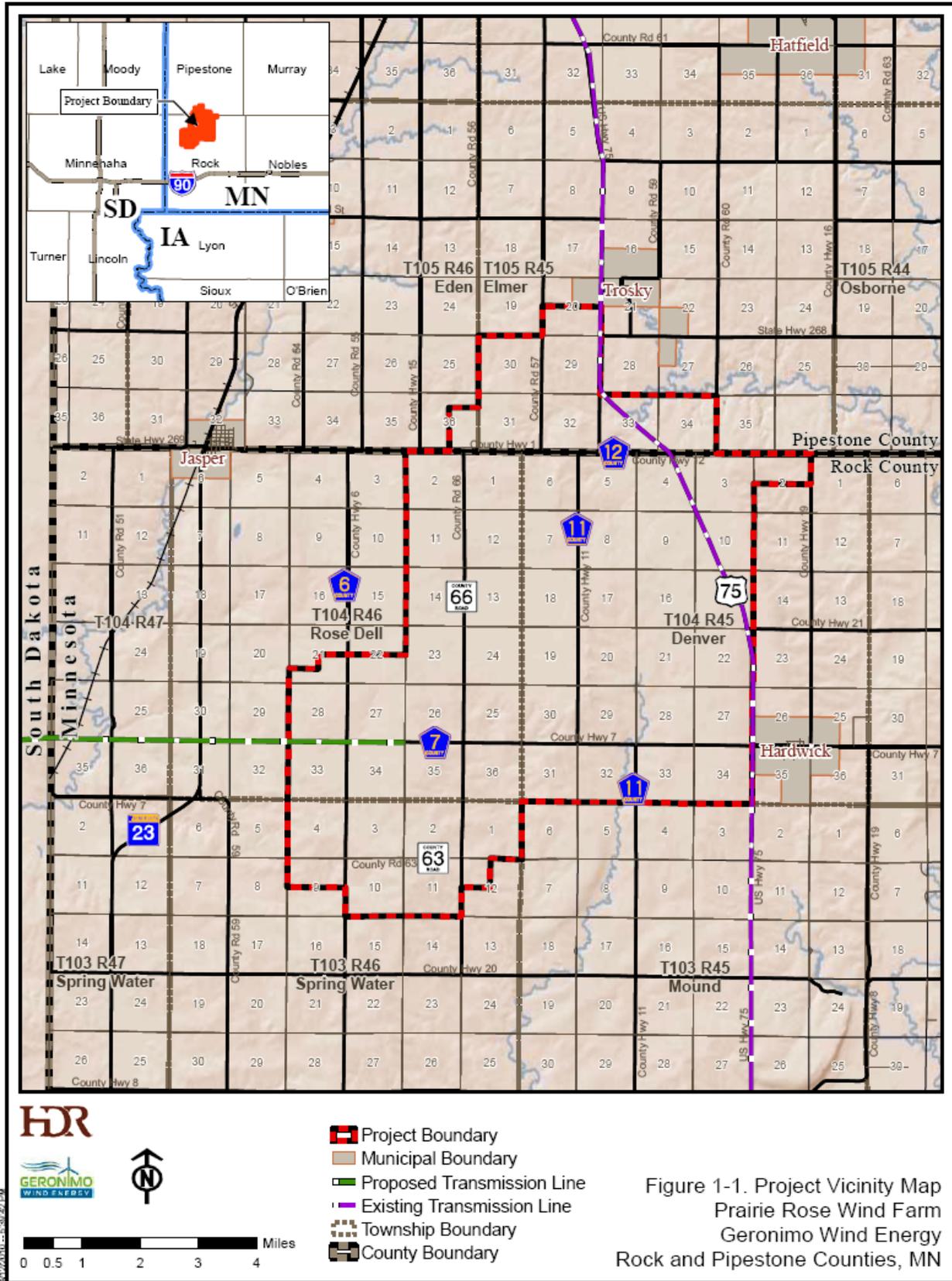


Figure 1-1. Project Vicinity Map
 Prairie Rose Wind Farm
 Geronimo Wind Energy
 Rock and Pipestone Counties, MN