

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair  
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In the Matter of the Application of Prairie Rose Wind, LLC for a Certificate of Need for an up to 200 MW Project & Associated Facilities in Pipestone & Rock Counties in Southwestern Minnesota

ISSUE DATE: September 16, 2011

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

ORDER GRANTING A CERTIFICATE OF NEED

**PROCEDURAL HISTORY**

On May 13, 2010, Prairie Rose Wind, LLC (Prairie Rose) filed an application for a certificate of need to erect multiple wind turbines – a wind farm –capable of generating up to 101 megawatt (MW). Prairie Rose proposed to locate the wind farm in Rock and Pipestone Counties in southwestern Minnesota, and to build a transmission line connecting the wind farm to the transmission grid. Contemporaneous with this filing, Prairie Rose gave notice of its proposal in ads published in local papers, direct mail to landowners and others with mailing addresses along the proposed route of the transmission line, and direct mail to local units of government along the route.

On July 19, 2010, the Commission issued an Order Accepting Application as Complete, Authorizing Informal Review Process and Granting Variance. The order found the application complete as of June 15. The Commission solicited public comments on the proposal through September 17, and reply comments through October 15.

On July 27, 2010, the Minnesota Department of Commerce (the Department) convened a public meeting to consider the scope of the Environmental Report it would prepare as required by Minn. Rules, part 7849.1200; this included identifying alternative proposals for the Commission's consideration. The Department also invited interested persons to submit written comments by August 17.

On August 30, 2010, the Department's Director of the Office of Energy Security (now the Department of Energy Security) issued his Scoping Decision, identifying the appropriate scope of the Environmental Report to be prepared by the Department.

On September 13, 2010, the Department filed comments on the merits of the project and recommended that the Commission approve the application.

On November 15, 2010, the Department issued its Environmental Report on the project.

On December 28, 2010, Administrative Law Judge (ALJ) Richard Luis convened a public hearing on the project at the Memorial Hall in Jasper, Minnesota. The ALJ continued to receive written comments through January 10, 2011.

On February 14, 2011, Prairie Rose filed a request to increase the size of its project from 101 MW to up to 200 MW. On April 8 the Commission issued its Order Accepting Change in Size, Requiring Public Comment Period and Requiring Public Comment Meeting, soliciting additional input regarding the change in Prairie Rose's proposal.

By May 5, 2011, the Commission had received two comments: one from the Department recommending approval of the expanded project, and one from a coalition of citizens and businesses (Citizens Coalition) challenging the record support for the proposed transmission line that would connect the project to the transmission grid. Prairie Rose and the Citizens Coalition would continue to file supplemental comments until June 30.

On May 16, 2011, the Department filed a revised Environmental Report addressing the proposed increase in the project's generating capacity.

On May 19, 2011, a second public meeting was held to receive public comments on the change in the proposal's generating capacity. The Commission continued to receive public comment through June 30, 2011.

On July 29, 2011, Shetek Wind Inc., Jeffers South LLC, Watonwan Wind LLC and Greenhead Wind LLC (collectively, the Joint Protestors) filed comments reporting that they had filed objections with the Federal Energy Regulatory Commission (FERC) related to the proposed transmission line.<sup>1</sup> They asked the Commission to defer granting the certificate of need until after FERC had ruled on their petition; in the alternative, they asked the Commission to refer the matter for a contested case proceeding. Prairie Rose filed replies to the Joint Protestors on August 2 opposing the Joint Protestors' requests.

The Commission met on August 4, 2011, to consider this matter. At that time Prairie Rose stated that it had entered into a power purchase agreement with Northern States Power Company d/b/a Xcel Energy (Xcel).<sup>2</sup> Xcel agreed to file documents demonstrating that Xcel needs the electricity to be generated by Prairie Rose.

## **FINDINGS AND CONCLUSIONS**

### **I. Proposed Project**

Prairie Rose proposes to build a large wind energy conversion system in Minnesota's Pipestone and Rock Counties. According to the applicant, the project is needed to address a) the continuing growth in demand for electricity in the state and region and b) the growing demand for additional energy from renewable sources, as required by Minnesota's Renewable Energy Standard (RES).<sup>3</sup> The RES directs utilities to acquire increasing amounts of electricity from renewable sources of energy, and establishes a series of deadlines for achieving this objective.

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<sup>1</sup> See FERC Docket No. EL11-53-000.

<sup>2</sup> See *In the Matter of the Petition of Northern States Power Company, a Minnesota Corporation, for Approval of a Power Purchase Agreement with Prairie Rose Wind Energy, LLC*, Docket No. E-002/M-11-713.

<sup>3</sup> Minn. Stat. § 216B.1691.

In a separate docket, Prairie Rose is also seeking a site permit for the project.<sup>4</sup>

The applicant proposes to build between 110 and 124 turbines, each with a capacity of 1.6 to 1.8 MW, for a combined capacity of no more than 200 MW. Facilities associated with the project include gravel access roads, an operations and maintenance building, an electrical collection system, project substation, a meteorological tower, a Sonic Detection and Ranging unit or Light Detection and Ranging unit to monitor the plant, and a transmission line to transport the resulting electricity to the transmission grid.

The 115 kilovolt (kV) transmission line would extend from the wind farm approximately seven miles to the South Dakota border, and 17 miles further to the Split Rock substation near the City of Brandon in Minnehaha County, South Dakota. The route parallels existing rights-of-way along county and township roads; Prairie Rose states that it is negotiating voluntary easements with landowners along the route. Xcel has agreed to permit Prairie Rose to connect to the grid near the site of Xcel's Angus Anson generator, in accordance with the Net Zero Interconnection policy discussed below.

## II. Transmission Issues

The Federal Energy Regulatory Commission (FERC) has jurisdiction over the rates, terms, and conditions of electricity sold at wholesale, and transmission services provided in interstate commerce.<sup>5</sup> To encourage efficient and nondiscriminatory use of the nation's transmission facilities, FERC encourages public utilities to form regional transmission organizations.<sup>6</sup>

Several Midwestern public utilities organized a regional transmission organization called the Midwest Independent Transmission System Operator, Inc. (MISO).<sup>7</sup> MISO adopted an Open Access tariff for the purpose of creating nondiscriminatory terms under which generators could connect to the transmission grid.<sup>8</sup> Because the actions of each participant on the grid can affect the other participants, the tariff establishes rules for coordinating these actions. In particular, the tariff establishes a queue for considering requests for adding new generators to the grid, and identifies the engineering studies necessary to evaluate each proposal.<sup>9</sup> In addition, MISO established

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<sup>4</sup> See *In the Matter of the Application of Prairie Rose Wind, LLC for a Site Permit for a 200 Megawatt Large Wind Energy Conversion System in Rock and Pipestone Counties*, Docket No. IP-6838/WS-10-425.

<sup>5</sup> 16 U.S.C. § 824.

<sup>6</sup> *Regional Transmission Organizations*, 65 Fed. Reg. 809 (January 6, 2000), FERC Stats. & Regs. ¶ 31,089 (1999) ("Order 888"), order on reh'g, Order No. 2000-A, 65 Fed. Reg. 12,088 (March 8, 2000), FERC Stats. & Regs. ¶ 31,092 (2000), *aff'd sub nom.* Public Utility District No. 1 of Snohomish County, Washington v. FERC, Nos. 00-1174, *et al.* (D.C. Cir. 2001); see 18 C.F.R. Part 35.

<sup>7</sup> See FERC Docket No. EC98-24.

<sup>8</sup> See generally FERC Docket No. ER98-1438. The current version of this tariff is available at <https://www.midwestiso.org/Library/Tariff/Pages/Tariff.aspx>.

<sup>9</sup> See *id.*, MISO Open Access tariff, Attachment X (Generator Interconnection Procedures).

markets for the buying and selling of electricity among wholesale parties such as public utilities.<sup>10</sup> FERC approved these arrangements.

In 2008 MISO adopted a Net Zero Interconnection policy statement, clarifying its current practices.<sup>11</sup> The statement identified a streamlined method by which a new generator could connect to the grid by relying on rights that MISO had awarded to an existing generator.<sup>12</sup> The new generator would be able to benefit from the streamlined process only if the combined output of both the old and new generators at that location would not exceed the output capability or MISO study rating of the existing generator.

On January 8, 2010, Xcel informed the Commission that it would seek to apply the Net Zero Interconnect policy at its Angus Anson plant:

Transmission capacity has been and remains a significant factor affecting the development of wind projects. Our Angus Anson generating plan in Sioux Falls is a Peaking Resource [operating primarily during rare periods of high demand] and has firm transmission capacity to deliver its output. We have decided to explore the opportunity to utilize the transmission capacity associated with the Anson Plant more fully by possibly locating wind generation capacity nearby and connecting it to the transmission system at Anson .... utilizing existing transmission rights to deliver wind energy to our system when the Anson plant is not operating.<sup>13</sup>

On July 15, 2011, the Joint Protestors filed a complaint at FERC alleging that MISO's Net Zero Interconnection policy conflicted with federal law and MISO's Open Access tariff.<sup>14</sup> FERC has not yet ruled on this complaint.

### **III. State Standard for Granting a Certificate of Need**

#### **A. The Initial Certificate of Need Statutory Factors**

As initially enacted, the certificate of need statute identified eight factors for the Commission to consider in evaluating the need for a proposed large energy facility<sup>15</sup> and directed the

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<sup>10</sup> See *id.*, MISO Open Access tariff, Module C (Energy and Operating Reserve Markets).

<sup>11</sup> See FERC Docket No. EL11-53, MISO witness Eric Laverty direct testimony, at 10 (July 29, 2011).

<sup>12</sup> See Prairie Rose Reply Comments (May 27, 2011) Exhibit D, citing MISO policy statement at <https://www.midwestiso.org/Library/Repository/Study/Generator%20Interconnection/Midwest%20ISO%20Policy%20on%20Net%20Zero%20Interconnection%20Requests.pdf> (accessed May 26, 2011).

<sup>13</sup> Prairie Rose reply comments (May 27, 2011), Exhibit C (citing Docket No. E-002/M-07-1558, *In the Matter of Northern States Power Company d/b/a Xcel Energy's Application for Approval of its Renewable Energy Plan*, Xcel's January 8, 2010 filing at 2.)

<sup>14</sup> FERC Docket No. EL11-53.

<sup>15</sup> Minn. Stat. § 216B.243, subd. 3.

Commission to "adopt assessment of need criteria to be used in the determination of need for large energy facilities pursuant to this section."<sup>16</sup>

The statute also prohibited the Commission from granting any certificate of need unless the applicant demonstrated that the need for electricity cannot be met more cost effectively through energy conservation and load-management measures.<sup>17</sup>

### **B. The Commission's Rules Regarding Certificates of Need**

In 1983 the Commission adopted the certificate of need rules, Minn. Rules, Chapter 7849. One of those rules, Minn. Rules, part 7849.0120, lists the eight factors identified in the statute and provides for the Commission to issue a certificate of need upon finding that the applicant has demonstrated four things:

- (A) that the probable result of denial would be an adverse effect upon the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states;
- (B) that a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record;
- (C) that a preponderance of the evidence on the record shows that the proposed facility or a suitable modification of the facility will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health; and
- (D) that the record does not demonstrate that the design, construction, or operation of the proposed facility, or a suitable modification of the facility, will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.

### **C. Additional Statutory Requirements**

Subsequent to the adoption of the rules, the Legislature amended the statute to direct the Commission to consider four more factors when assessing need:<sup>18</sup>

- (9) with respect to a high-voltage transmission line, the benefits of enhanced regional reliability, access, or deliverability to the extent these factors improve the robustness of the transmission system or lower costs for electric consumers in Minnesota;
- (10) whether the applicant or applicants are in compliance with applicable provisions of sections 216B.1691 and 216B.2425, subdivision 7, and have filed or will file

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<sup>16</sup> Minn. Stat. § 216B.243, subd. 1

<sup>17</sup> Minn. Stat. § 216B.243, subd. 3.

<sup>18</sup> Minn. Stat. § 216B.243.

by a date certain an application for certificate of need under this section or for certification as a priority electric transmission project under section 216B.2425 for any transmission facilities or upgrades identified under section 216B.2425, subdivision 7;

(11) whether the applicant has made the demonstrations required under subdivision 3a;<sup>19</sup> and

(12) if the applicant is proposing a nonrenewable generating plant, the applicant's assessment of the risk of environmental costs and regulation on that proposed facility over the expected useful life of the plant, including a proposed means of allocating costs associated with that risk.

**IV. The Department of Commerce's Comments and Environmental Report**

**A. Comments on Merits of Prairie Rose’s Request for a Certificate of Need**

In comments filed September 13, 2010, the Department examined the application for a certificate of need with respect to criteria established in statute and rule and explained why it believed Prairie Rose’s application met those criteria. An itemization of the criteria addressed and the Department's recommendations regarding them follows:

<b>Statutory Criteria: Minn. Stat. § 216B.243</b>	<b>Where addressed in the Department’s September 13, 2010 Comments<sup>20</sup></b>	<b>The Department’s Statement</b>
Minn. Stat. §216B.243, subd. 3 (10)	Section II,F,3a Page 13	Minnesota Statutes §216B.1691 relates to Minnesota’s requirements regarding the provision of renewable energy to Minnesota’s retail customers. Given that Prairie Rose has no retail customers in Minnesota, the [Department] concludes that this statutory criterion is not applicable.
Minn. Stat. §216B.243,subd.3a, and§216B.2422, subd. 4	Section II, B, 2 Pages 6-7	Minnesota Statutes indicate a clear preference for renewable facilities. The proposed Project meets that preference.

<sup>19</sup> Minn. Stat. § 216B.243, subd. 3a, bars the Commission from granting a certificate of need for any large energy facility that transmits electric power generated by means of a nonrenewable energy source unless the applicant demonstrates that it has explored using renewable resources and that the total costs of the project it proposes, including environmental costs, are lower than the cost of using renewables.

<sup>20</sup> While the Department filed supplemental comments in response to Prairie Rose’s revised application, those comments merely stated that the revisions did not prompt any change in the Department’s analysis, conclusions or recommendation. Department Comments (May 5, 2011) at 2.

Minn. Stat. §216B.2426	Section II, D, 3 Page 9	...the [Department] concludes that a potential buyer of the proposed Project's output has the incentive to consider all resources available, including distributed generation. The [Department] concludes that the requirement to consider distributed generation has been met.
Minn. Stat. §216B.1694, subd.2 (a) (5)	Section II, D, 4 Page 10	This statute does not apply since the proposed facility is not a fossil-fuel-fired generation facility.
Minn. Stat. §216B.243 subd. 3 (10) and §216B.1691	Section II, F, 3a Page 13	Given that Prairie Rose has no retail customers in Minnesota, the [Department] concludes that this statutory criterion is not applicable.
Minn. Stat. §216B.243,subd.3 (12)	Section II, F, 4 Page 13	In this case, Prairie Rose is proposing a renewable generation facility. Therefore, this statute does not apply.
Minn. Stat. §216B.243, subd. 3 (10) and §216B.2425,subd. 7	Section II, F, 5 Page 13-14	[T]he Commission has done what it can to assure that sufficient transmission capacity should be available for the 2016 and 2020 RES milestones.[] Therefore, [the Department] concludes that this criterion has been met.
Minn. Stat. § 216H.03	Section II,F,6 Page 14	The [Department] concludes that the proposed Project will not contribute to statewide power sector carbon dioxide emissions.

In addition, the Department addressed the criteria established in Minn. Rules, part 7849.0120, which reiterate the criteria established in Minn. Stat. § 216B.243, subdivision 3(1) - (8).

<b>Regulatory Criteria: Minn. Rules, Part 7849.0120</b>	<b>Where Addressed in the Department's September 13, 2010 Comments<sup>21</sup></b>	<b>The Department's Statement</b>
Subpart A(1)	Section II, A, 1, a Pages 3-4	[The Department] concludes that Prairie Rose's forecast of the need for the renewable energy expected to be produced by the proposed Project is reasonable.
Subpart A (2)	Section II, B, 3 Page 7	The Commission's Exemption Order exempted Prairie Rose from providing information on conservation programs and the potential for reducing the need for this generation project because Prairie Rose does not have retail customers and does not operate any conservation programs. However, it is unlikely that the regional needs for wind energy at the scale indicated by Prairie Rose could be met through conservation programs.

<sup>21</sup> See prior note.

Subpart A (3)	Section II, F, 2 Page 12	The [Department] concludes that this subcriterion has been met.
Subpart A (4)	Section II, C, 1, a Pages 7-8	Therefore, the [Department] concludes that current and planned facilities not requiring a CN [certificate of need] have not been demonstrated to be more reasonable than the proposed Project.
Subpart A (5)	Section II, E Page 10	The [Department] relies on its Environmental Report (ER) for its socioeconomic analysis in a CN proceeding. As of the date of the submission of these comments, the ER is not yet complete. Therefore, the [Department] recommends that the Commission consider the ER that will be filed by the Energy Facilities Permitting Staff of the [Department] in the Commission's decision in this matter.
Subpart B (1)	Section II, B, 1 (a-c) Pages 5-6	Based on the discussion above regarding forecasted renewable energy needs and the Company's economic incentives, the [Department] concludes that the proposed Project's size is not excessive and therefore is reasonable. (page 5) [N]on-wind renewable energy generation technologies such as solar, hydro, and biomass are more costly, at an experimental stage, produce less energy, and/or involve greater environmental impacts than the proposed Project. Given these factors, along with the preference for renewable, non-carbon-emitting energy resources in Minnesota Statutes, the [Department] concludes that the proposed Project's type is reasonable. (page 5) [T]he timing of the proposed Project is reasonable. (page 6)
Subpart B (2)	Section II, C, 1, b Page 9	[S]ince pricing in the MISO market is based on the last (marginal) resource, electricity produced by wind facilities of this size is not likely to have a significant effect on MISO wholesale prices.
Subpart B (3)	Section II, C, 1, c Pages 8-9	The proposed facility will have relatively minor pollution impacts. Therefore, consideration of the effects on the natural and socioeconomic environments using the Commission's approved externality values would not significantly impact the overall cost analysis. Further, as no reasonable alternatives to the proposed Project have been identified, comparing the effects of the proposed Project with another wind project of this size is not likely to result in significant differences. Therefore, the [Department] concludes that this subcriterion has been met.

Subpart B (4)	Section II, C, 2 Page 9	Therefore, the [Department] concludes that this sub-criterion has been met.
Subpart C(1)	Section II, A,1,b Page 4	The proposed Project could help Minnesota meet its energy needs while supporting the state’s renewable energy and carbon ramp-down goals. Therefore, the [Department] concludes that the proposed Project fits the state’s overall energy needs.
Subpart C (2)	Section II, E Page 10	The [Department] relies on its Environmental Report (ER) for its socioeconomic analysis in a CN proceeding. As of the date of the submission of these comments, the ER is not yet complete. Therefore, the [Department] recommends that the Commission consider the ER that will be filed by the Energy Facilities Permitting Staff of the [Department] in the Commission’s decision in this matter.
Subpart C (3)	Section II, E Page 10	[The Department] recommends that the Commission consider the ER....
Subpart C (4)	Section II, E Page 10	[The Department] recommends that the Commission consider the ER....
Subpart D	Section II, F, 1 Page 12	[T]he record at this time does not demonstrate that the design, construction, or operation of the proposed facility, or a suitable modification of the facility, will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.

Based on its review, the Department recommended that the Commission approve Prairie Wind’s application for a certificate of need.

## **B. The Department's Environmental Report**

On August 30, 2010, the Department’s Director of the Office of Energy Security issued his Scoping Decision in compliance with Minn. Rules, part 7849.1400. subpart 7, establishing the scope of the Environmental Report to be prepared by the Department. A copy of the Scoping Decision is attached to the Department’s Environmental Report as Appendix A.

On November 15, 2010, the Department filed its Environmental Report, comparing the project's effects on humans and the environment to the effects of the likely alternatives identified in the Scoping Decision. On May 16, 2011, the Department supplemented its report to reflect the fact that Prairie Rose had increased the project’s proposed generating capacity. The reports explain that because the proposed project is intended to produce renewable energy in furtherance of Minnesota’s renewable energy requirements (Minn. Stat. § 216B.1691), the alternatives examined in this Environmental Report are limited to renewable energy technologies as defined in Minn. Stat. § 216B.1691. These alternatives include a) a wind generation project with comparable generating capacity, sited elsewhere in Minnesota b) a biomass plant with comparable generating capacity; and c) a “no build” option.

Section 2 of the Environmental Report outlines the regulatory framework governing the project. Section 3 describes the proposed project. Section 4 describes alternatives to the project. Section 5 describes the potential impacts of the no build alternative. Section 6 discusses the potential human and environmental impacts of the project and alternatives, including possible mitigations. Section 7 discusses the viability of the proposed alternatives. Section 8 describes the additional permits that may be required for this project.

## **V. Transmission Line**

### **A. Alternatives identified by the Citizens Coalition**

No party has disputed the need for additional wind turbines, or for a transmission line connecting turbines to the grid. But both the Citizens Coalition and the Joint Protestors argue that Prairie Rose has failed to bear the burden of demonstrating the merits of its proposed transmission line. In particular, the Coalition argues that the applicant should justify its choice to connect to the Split Rock substation 24 miles away rather than connecting to one of three closer transmission lines. The Coalition argues that connecting to these transmission lines would permit the applicant to reduce the length – and therefore the cost – of the new transmission line, and would avoid the environmental harm associated with the applicant’s proposed line.

The applicant disputed the Citizens Coalition’s characterization of the proposed alternatives, arguing that interconnecting with any of these lines would either impose additional cost, cause the same or greater environmental cost, or simply fail to meet the project’s needs.

As a first alternative, the Citizens Coalition proposed that Prairie Rose connect to a 69 kV line that runs through the proposed site of the project. In response, Prairie Rose reports that it met with the line’s owners to explore possible interconnection. While this line has the advantage of proximity, the applicant ultimately concluded that the line would be unsuitable for the Prairie Rose project. The line’s owner is not a member of MISO; consequently, Prairie Rose would need to pay an additional wheeling charge to transmit its electricity to MISO customers via this line. Moreover, the line lacks the 115 kV capacity required for the Prairie Rose project.

As a second alternative, the Coalition proposed that Prairie Rose connect to a 161 kV transmission line approximately 6 miles south of the project’s boundary. In response, Prairie Rose reports that it previously considered this alternative but concluded that the line’s capacity is probably already fully used by other generators. In support of this view, the Prairie Rose noted that MISO has twice studied the feasibility of permitting wind farms to connect to this line, and in each instance the wind farm withdrew its request after receiving MISO’s report.

Finally, the Coalition proposed that Prairie Rose connect to a 345 kV transmission line approximately 9 miles from the project’s southern border. In response, Prairie Rose argues that interconnection with a 345 kV line would be excessively expensive due to the need for a more sophisticated power transformer, among other reasons.

Having reviewed the parties’ filings, the Department concludes that Prairie Rose has provided sufficient justification demonstrating the reasonableness and prudence of its proposed transmission line.

## **B. Net Zero Interconnection**

Beyond the shortcomings in the alternatives identified by the Citizens Coalition, Prairie Rose emphasizes an advantage of its own proposed transmission route: Prairie Rose can obtain MISO's approval to connect to the transmission grid due to MISO's Net Zero Interconnect policy. In the absence of this policy, Prairie Rose's interconnection request could be delayed in the MISO queue as MISO studies earlier interconnection requests and requires parties to upgrade facilities to accommodate those requests. But MISO is able to streamline its evaluation of Prairie Rose's connection request because Xcel has already received MISO's authorization to connect its peaking plant to the grid at the Split Rock substation, Prairie Rose is willing to operate within the limits of Xcel's authorization, and Xcel is willing to modify the operation of its plant to accommodate Prairie Rose's operations.

The Citizens Coalition and the Joint Protestors argue that the Net Zero Interconnection policy violates federal law and MISO's tariffs, and that this matter is being contested at FERC. They ask the Commission to defer action in this docket pending further FERC action.

In contrast, the Department and Prairie Rose argue that the Commission need not await FERC's decision. They argue that the Commission's actions will neither facilitate nor impede FERC's deliberations; in the meantime, Prairie Rose has agreed to bear the financial risk of an adverse FERC decision.

## **C. Procedural concerns**

The Citizens Coalition and the Joint Protestors ask the Commission to defer ruling on the certificate of need pending further developments. These include a) FERC's ruling on the pending challenge to MISO's Net Zero Interconnect policy, b) Prairie Rose's acquisition of the relevant studies from MISO comparing its proposed transmission line to the lines proposed by the Citizens Coalition, and c) record development in a contested case proceeding.

The Department and Prairie Rose argue that these proposals are unnecessary and untimely. And Prairie Rose argues that granting these requests would cause needless delay which would prejudice its interests. Prairie Rose states that, under current law, its opportunity to qualify for a federal production tax credit will expire if it cannot begin commercial operations by the end of 2012.

## **VI. The Commission's Analysis and Action**

### **A. Transmission Line**

The Commission declines to defer action on Prairie Rose's application for a certificate of need – including the need for the proposed transmission line.

This proceeding has provided interested persons with ample opportunity to develop the record. As noted above, Prairie Rose's proposal to build its 115 kV transmission line has been pending since May 2010, when it gave notice of its proposal in ads published in local papers, direct mail to landowners and others with mailing addresses along the proposed route of the transmission line, and direct mail to local units of government along the route.

By June 2010 Prairie Rose had fulfilled all the necessary application requirements for a certificate of need. By July 2010 the Department convened a public meeting to consider the scope of the Environmental Report it would prepare regarding Prairie Rose’s proposal – and any alternatives. The Department continued to receive written comments into August 2010, whereupon it analyzed the comments and issued its Scoping Decision identifying the appropriate scope of alternatives to consider in this matter.

The sole complicating factor arises from the fact that Prairie Rose changed its proposal in February 2011 to increase the wind farm’s generating capacity. But this change did not alter Prairie Rose’s proposed transmission line: the need for the line, the size of the line, and the route for the line all remained the same.

Given the foregoing process, the Commission finds insufficient reason to defer action for the purpose of permitting MISO or an administrative law judge to further develop the record. Similarly, given that Prairie Rose has agreed to bear the financial risk of an adverse ruling by FERC, the Commission finds insufficient reason to await a FERC decision.

Minn. Rules, part 7849.0110, provides for the Commission to consider alternatives a) that are proposed prior to the close of the last public hearing, and b) for which the record contains substantial evidence with respect to the certificate of need criteria. Ultimately the Commission must make its decision based on whether “a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record...”<sup>22</sup> The Commission will act on the basis of the record the parties have developed.

## **B. The Environmental Report**

Commission rules establish the following procedures for environmental review:

- The Department gives notice to interested persons (7849.1400, subp. 1).
- The Department convenes a public meeting (7849. 1400, subp. 3).
- The Department receives comments on scope of review (7849. 1400, subp. 4).
- The Department issues a decision establishing the scope of review (7849. 1400, subp. 7).
- The Department prepares environmental review documents (7849. 1400, subp. 9).
- The Department files its environmental review documents (7849.1800, subp. 1).
- The Commission rules on the review's completeness (7849.1800, subp. 2).

Having reached the final step, the Commission must determine whether the environmental report and the record address the issues identified by the Department in its scoping decision.

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<sup>22</sup> Minn. Rules, part 7849.0120.B (emphasis added); see also part 7849.0110 (“The commission shall consider only those alternatives proposed before the close of the public hearing and for which there exists substantial evidence on the record with respect to each of the criteria listed in part 7849.0120.”)

Having reviewed the Environmental Report in light of the issues identified in the Scoping Decision, the Commission finds that the record of this proceeding, including the Environmental Report and its supplement, do in fact adequately address the issues identified in the Scoping Decision. The Commission therefore finds that the Department's Environmental Report, as supplemented, is adequate for purposes of the certificate of need process.

### **C. Prairie Rose's Request for a Certificate of Need**

The Commission, having taken into consideration all the factors identified in statute and rule, finds that Prairie Rose has proved the need for its proposed large energy facility in Rock and Pipestone Counties, including its proposed transmission line. As shown above, the Department based its well-founded recommendation on its examination of the relevant statutory and regulatory criteria.

The Department's initial and supplemental comments, however, reflected the premise that Prairie Rose would sell its power into the MISO energy markets; Prairie Rose justified the need for its wind farm on the basis of the overall need for energy from renewable sources, driven by the RES. At the Commission's hearing, however, Prairie Rose announced that it now proposes to sell its energy to Xcel. In the interest of establishing a full record demonstrating need for the wind farm, Xcel stated its willingness to file in this docket copies of its current and proposed resource plans.<sup>23</sup> The Department supports this proposal.

Having reviewed the Department's comments and the record in this matter, the Commission will accept the Department's findings. Based on those findings, augmented by Department's Environmental Report as supplemented and the record as a whole, the Commission makes four further findings:

First, based on a consideration of the factors set forth at Minn. Rules, part 7849.0120.A, the Commission concludes that denial of the applicant's petition would likely harm the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states. In particular, it would impair Xcel's ability to meet its obligations under the RES; in support of this proposition, the Commission will accept Xcel's offer to file its current and proposed resource plans demonstrating Xcel's need for the energy.

Second, based on a consideration of the factors set forth at Minn. Rules, part 7849.0120.B, the Commission concludes that a more reasonable and prudent alternative to the applicant's proposed facility has not been demonstrated by a preponderance of the evidence on the record. The alternative transmission lines proposed by the Citizens Coalition are not sufficiently developed in the record to constitute viable alternatives; to the extent they are developed, the Commission finds that these alternatives are not more reasonable and prudent than the transmission line proposed by the applicant.

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<sup>23</sup> See Docket No. E-002/RP-07-1572, *In the Matter of Northern States Power Company d/b/a Xcel Energy's Application for Approval of its 2008-2022 Resource Plan*; Docket No. E-002/RP-10-825, *In the Matter of Xcel Energy's 2011-2025 Integrated Resource Plan*.

Third, based on a consideration of the factors set forth at Minn. Rules, part 7849.0120.C, the Commission concludes that the preponderance of the evidence on the record indicates that the applicant's proposed facility will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health. Electricity generated from wind power avoids adverse effects of fuel extraction and transportation, significant water usage and discharge, and air emissions. With appropriate site permit conditions, the facility should have minimum effect on the environment, including human health.

Fourth, the record does not demonstrate that the design, construction, or operation of the proposed facility, or a suitable modification of the facility, will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments. Minn. Rules, part 7849.0120.D. Prairie Rose credibly attests that it is diligently pursuing the permits and approvals set forth in its application at pp. 45-47. Allegations that MISO's Net Zero Interconnection policy is inconsistent with federal law or MISO's tariff are, as yet, unsubstantiated.

Minn. Rules, part 7849.0120, provides for the Commission to grant a certificate of need to an applicant when the Commission has made these four findings. Accordingly, the Commission will grant to Prairie Rose the certificate of need it has requested.

### **ORDER**

1. The Commission finds that the record created in this matter, including the Environmental Report prepared by the Department and filed with the Commission on November 15, 2010, and supplemented on May 16, 2011, adequately address the issues identified in the Department's scoping decision of August 30, 2010.
2. The Commission hereby grants Prairie Rose Wind, LLC, a certificate of need for its proposed wind facility in Rock and Pipestone Counties with a generating capacity of up to 200 MW.
3. To confirm and document that the electricity to be generated by Prairie Rose is needed, the Commission directs Xcel to file in this docket Xcel's resource plan from Docket No. E-002/RP-07-1572, *In the Matter of Northern States Power Company d/b/a Xcel Energy's Application for Approval of its 2008-2022 Resource Plan*, and its proposed resource plan from Docket No. E-002/RP-10-825, *In the Matter of Xcel Energy's 2011-2025 Integrated Resource Plan*.

4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary



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