

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger
David C. Boyd
Nancy Lange
Dan Lipschultz
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of
Stoneray Power Partners, LLC for a Certificate
of Need for a 105-MW Large Energy Facility in
Pipestone and Murray Counties

ISSUE DATE: May 19, 2014

DOCKET NO. IP-6646/CN-13-193

ORDER FINDING ENVIRONMENTAL
REPORT ADEQUATE AND GRANTING
CERTIFICATE OF NEED

PROCEDURAL HISTORY

On April 26, 2013, Stoneray Power Partners, LLC (Stoneray or the Applicant) filed an application for a certificate of need for a 105-MW wind farm in Pipestone and Murray counties (the project).¹

On April 29, 2013, the Commission granted Stoneray an exemption from specific requirements in the Commission's certificate-of-need rules.

On August 27, 2013, the Minnesota Department of Commerce (the Department) filed comments on the project. The Department recommended approval of the application for a certificate of need.

On September 9, 2013, the Department issued a scoping decision for its environmental report.

On December 30, 2013, the Department filed its environmental report on the project.

On April 23, 2014, the matter came before the Commission.

FINDINGS AND CONCLUSIONS

I. The Proposed Project

The Stoneray wind farm will consist of up to 62 1.7-to-3.2-MW wind turbines, transformers, a project substation, 14 miles of turbine access roads, collector lines, up to three permanent meteorological towers, and other project facilities.

¹ Subsequently, on June 10, 2013, Stoneray would also file an application for a site permit for the project. See Docket No. IP-6686/WS-13-216.

The project area is in Pipestone and Murray counties in southwestern Minnesota near the town of Woodstock. The total area of the project will be approximately 29,500 acres, most of which is agricultural land. The project will connect to the electrical transmission grid at Xcel Energy's Chanarambie substation. Because the Chanarambie substation is within the project's footprint, a high-voltage transmission line will not be needed to connect the project to the electrical grid.

As an independent power producer, Stoneray plans to sell the power generated by the project to one or more utilities to satisfy Minnesota's Renewable Energy Standards² and regional need. Stoneray expects the project to go into service in 2015, depending upon when Stoneray can secure interconnection and power-purchase agreements.

II. Legal Standard

A. The Original 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 facility³ and directed the Commission to "adopt assessment of need criteria to be used in the determination of need for large energy facilities pursuant to the section."⁴

The statute also prohibited the Commission from granting any certificate of need unless the application demonstrated that the need for electricity could not be met more cost effectively through energy conservation and load management.⁵

B. The Commission's Rules

In 1983, the Commission, in compliance with its statutory obligation to establish assessment-of-need criteria, adopted the certificate-of-need rules, Minn. R. ch. 7849. One of those rules, Minn. R. 7849.0120, addressed the eight factors identified in the statute and directed the Commission to issue a certificate of need when the applicant demonstrates that

A. 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. a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record;

C. by a preponderance of the evidence on the record, 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

² Minn. Stat. § 216B.1691.

³ Minn. Stat. § 216B.243, subd. 3.

⁴ *Id.*, subd. 1.

⁵ *Id.*, subd. 3.

D. 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

After the Commission adopted these rules, the Legislature amended the statute to add four more factors for the Commission to evaluate in assessing need:

(9) with respect to high-voltage transmission lines, 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 customers in Minnesota⁶;

(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 by a date certain an application for certificate of need 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 7⁷;

(11) whether the applicant has made the demonstrations required under subdivision 3a⁸; 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.⁹

III. The Department's Comments and Environmental Report

A. Comments

In its August 27, 2013 comments, the Department examined the certificate-of-need application in light of the criteria established in statute and rule and explained why it believed the application met those criteria. An itemization of the criteria addressed and the Department's recommendations regarding the criteria follows:

⁶ *Id.*, subd. 3(9).

⁷ *Id.*, subd. 3(10).

⁸ *Id.*, subd. 3(11).

⁹ *Id.*, subd. 3(12).

Statutory criteria: Minn. Stat. § 216B.243	Where addressed in Department's August 27, 2013 comments	The Department's statement
Minn. Stat. § 216B.243, subd. 3(9)	N/A	The proposed Project is not a transmission line.
Minn. Stat. § 216B.243, subd. 3a, and § 216B.2422, subd. 4	Section II.B.2, Page 6	Minnesota Statutes indicate a clear preference for renewable facilities. The proposed facility meets that preference.
Minn. Stat. § 216B.2426	Section II.C.3, Page 9	No proposals for distributed generation as an alternative to the proposed Project have been filed in this proceeding. Potential buyers of the proposed Project's output should have an incentive to use the lowest cost resource 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.C.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.E.3, Page 12	Given that the Applicant has no retail customers in Minnesota, the Department concludes that this statute does not apply.
Minn. Stat. § 216B.243, subd. 3(12)	Section II.E.4, Page 13	In this case, the Applicant 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.E.5, Page 13	Since Minnesota Statutes section 216B.2425 is applicable only to entities that own or operate electric transmission lines in Minnesota, this statute does not apply in this proceeding.
Minn. Stat. § 216B.243, subd. 3, and § 216B.243, subd. 3(8)	Section II.B.3, Page 7	The Applicant does not have retail customers and does not operate any conservation programs. It is unlikely that the regional needs for wind energy could be met through conservation programs.
Minn. Stat. § 216H.03	Section II.E.6, Page 13	Since wind energy projects do not produce carbon dioxide emissions, the Department concludes that the proposed Project does not violate this statute.

In addition, the Department addressed the criteria in Minn. R. 7849.0120(A)–(D), which mirror the criteria established in Minn. Stat. § 216B.243, subd. 3(1)–(8). The Department recommended that the Commission find that Stoneray has met the four basic criteria established by that rule in subparts A–D. The specific subcriteria considered in the Department's comments are as follows:

Regulatory criteria: Minn. R. 7849.0120	Where addressed in Department's August 27, 2013 comments	The Department's statement
Subpart A(1)	Section II.A.1.a, Pages 3–4	Considering the significant need for renewable energy in the region, the Department concludes that the Applicant'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 Applicant does not have retail customers and does not operate any conservation programs. It is unlikely that the regional needs for wind energy could be met through conservation programs.
Subpart A(3)	Section II.E.2, Page 12	The Applicant states that it has not engaged in any promotional activities directed toward increasing demand. Therefore, the Department concludes that this subcriterion has been met.
Subpart A(4)	Section II.C.1.a, Pages 7–8	Current and planned facilities not requiring a certificate of need have not been demonstrated to be more reasonable than the proposed Project.
Subpart A(5)	Section II.D, Pages 10–11	The general site and expected turbine placements minimize the proposed Project's effect on land use and human impact and enable the use of an existing transmission line.
Subpart B(1)	Section II.B.1, Page 5	The Department concludes that the proposed Project's size is not excessive and the type and timing are reasonable.
Subpart B(2)	Section II.C.1.b, Page 8	Wind energy resources are cost effective when compared with other renewable resources.
Subpart B(3)	Section II.C.1.c, Page 9	Comparing the effects of the proposed Project with another wind project of this size is not likely to result in significant differences.
Subpart B(4)	Section II.C.2, Page 9	The proposed Project is expected to be available at least 95 percent of the time. The Department concludes that this subcriterion 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 greenhouse-gas-emissions- reduction goals.
Subpart C(2)	Sections II.C.3 and II.D, Pages 9–11	The Department relies on its Environmental Report for its socioeconomic analysis.
Subpart C(3)	Section II.D, Pages 10–11	The Department relies on its Environmental Report for its socioeconomic analysis.
Subpart C(4)	Section II.D, Pages 10–11	The Department relies on its Environmental Report for its socioeconomic analysis.
Subpart D	Section II.E.1, Page 11	The Department has no reason to believe that the Applicant will fail to comply with the requirements of the listed federal and state agencies and local and tribal governments.

B. The Environmental Report

On December 30, 2013, the Department filed an environmental report analyzing the potential impacts associated with the proposed project. Because the proposed project is intended to produce renewable energy in furtherance of Minnesota's renewable energy standards, the alternatives considered were technologies eligible to be counted toward these objectives: (1) a 100-MW wind farm sited elsewhere in Minnesota, (2) a 38.5-MW biomass plant, and (3) a "no build" alternative. Section 6 of the report examined the human and environmental impacts of the project. Section 7 evaluated the alternatives to determine their feasibility and availability.

IV. Commission Action

At the time of a final decision on a certificate-of-need application, the Commission determines whether the environmental report, and the record supporting the report, address the issues identified by the scoping decision issued under Minn. R. 7849.1400, subp. 7. The Commission has reviewed the environmental report and finds that the report and supporting record adequately address the issues identified by the scoping decision.

The Commission has reviewed the Department's comments and will accept the Department's findings and recommendations. The Commission has considered the factors identified in statute and rule and will grant Stoneray a certificate of need.

Based on the record, the Commission makes findings on these four points:

First, based on a consideration of the factors set forth in Minn. R. 7849.0120(A), the Commission concludes that denying the application would likely have an adverse effect on the future adequacy of energy supply to ratepayers in Minnesota and neighboring states.

The Commission notes that the 2013 Biennial Transmission Projects Report, filed after the Department's comments in this docket, predicts that Minnesota utilities will have sufficient renewable-energy generation capacity to meet their obligations under Minnesota's Renewable Energy Standards through 2025.¹⁰ At the same time, the report forecasts a continued regional need for renewable energy through 2025. Considering the size of regional need for renewable energy in the years to come, the Commission concurs with the Department that Stoneray's forecast of the need for additional renewable energy supplies is reasonable. Further, because Stoneray is an independent power producer acting at present without a power purchase agreement, there is no ratepayer risk involved in the development of the project.

Second, based on a consideration of the factors set forth in Minn. R. 7849.0120(B), the Commission concludes that a more reasonable and prudent alternative to the project has not been demonstrated by a preponderance of the evidence in the record.

Third, based on a consideration of the factors set forth in Minn. R. 7849.0120(C), the Commission concludes that the preponderance of the evidence in the record demonstrates that the project, with appropriate site permit conditions and requirements, will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health.

¹⁰ See Docket No. E-999/M-13-402.

Fourth, based on a consideration of the factors set forth in Minn. R. 7849.0120(D), the Commission concludes that the record does not demonstrate that the design, construction, or operation of the project, or a suitable modification of the project, will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.

ORDER

1. The Commission finds that the environmental report adequately addresses the issues identified in the environmental-report scoping decision.
2. The Commission grants Stoneray Power Partners, LLC a certificate of need for up to 105 MW for the Stoneray Wind Project and associated facilities.
3. This order shall become effective immediately.

BY ORDER OF THE COMMISSION



Burl W. Haar
Executive Secretary



This document can be made available in alternative formats (e.g., large print or audio) by calling 651.296.0406 (voice). Persons with hearing loss or speech disabilities may call us through their preferred Telecommunications Relay Service.