

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

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

ISSUE DATE: May 19, 2014

DOCKET NO. IP-6646/WS-13-216

ORDER ISSUING SITE PERMIT

**PROCEDURAL HISTORY**

On June 10, 2013, Stoneray Power Partners, LLC (Stoneray), filed an application for a site permit to build a 105-MW wind farm in Pipestone and Murray counties (the project). Stoneray had previously applied for a certificate of need for the project in April 2013.<sup>1</sup>

On July 24, 2013, the Commission found the application complete, conditioned on Stoneray's submitting additional information, and referred the matter to the Office of Administrative Hearings (OAH) under Minn. R. 7850.3800 to develop the record on whether the project meets applicable permitting criteria.

On December 6, 2013, the Department filed a draft site permit for the project. The Commission issued the draft site permit for comment on January 9, 2014.

On December 30, 2013, the Department filed, in the certificate-of-need docket, an environmental report analyzing the potential impacts associated with the proposed project and several alternatives.

On January 14, 2014, an administrative law judge (ALJ) held a joint public hearing on Stoneray's site-permit and certificate-of-need applications. Four members of the public asked questions about the project.

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<sup>1</sup> *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*, Docket No. IP-6646/CN-13-193. Eight years earlier, in June 2005, the Environmental Quality Board had issued Stoneray a site permit for a 105-MW wind farm in the same area. *See* Docket No. E-6473/WS-05-1301. However, Stoneray never constructed the project and now seeks a new site permit in place of the old one.

On January 28, 2014, Stoneray filed proposed revisions to the draft site permit and proposed findings of fact, conclusions of law, and order issuing a site permit.

Also on January 28, the Minnesota Department of Natural Resources (DNR) filed comments recommending that updated survey protocols be used in monitoring bird and bat fatalities at the wind farm.

On February 12, 2014, the Department filed comments recommending several edits to Stoneray's proposed findings of fact, as well as several revisions to the draft permit.

On March 13, 2014, the ALJ issued a report concluding that the project met the applicable legal requirements for a site permit and recommending that the Commission issue a permit to Stoneray.

On March 28, 2014, the Department filed exceptions to the ALJ's report. The Department agreed with the ALJ's recommendation to issue a site permit but suggested several modifications to specific portions of the ALJ's report.

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.

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 Standards<sup>2</sup> and regional need. Stoneray expects the project to go into service in 2015, depending upon when Stoneray can secure interconnection and power-purchase agreements.

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<sup>2</sup> Minn. Stat. § 216B.1691.

## II. Legal Standard

The Commission will not issue a wind-farm site permit unless the Commission determines that the project is compatible with environmental preservation, sustainable development, and the efficient use of resources.<sup>3</sup> In designating power-plant sites, including wind-farm sites,<sup>4</sup> the Commission is guided by the following non-exclusive factors:

- evaluation of research and investigations relating to the effects on land, water and air resources of large electric power generating plants and the effects of water and air discharges and electric and magnetic fields resulting from such facilities on public health and welfare, vegetation, animals, materials, and aesthetic values;
- environmental evaluation of sites proposed for future development and expansion and their relationship to the land, water, air, and human resources of the state;
- evaluation of the effects of new electric power generation and transmission technologies and systems related to power plants designed to minimize adverse environmental effects;
- evaluation of the potential for beneficial uses of waste energy from proposed large electric power generating plants;
- analysis of the direct and indirect economic impact of proposed sites including, but not limited to, productive agricultural land lost or impaired;
- evaluation of adverse direct and indirect environmental effects that cannot be avoided should the proposed site be accepted;
- evaluation of alternatives to the applicant's proposed site;
- evaluation of governmental survey lines and other natural division lines of agricultural land so as to minimize interference with agricultural operations;
- evaluation of irreversible and irretrievable commitments of resources should the proposed site be approved; and
- when appropriate, consideration of problems raised by other state and federal agencies and local entities.<sup>5</sup>

To facilitate its review of proposed wind-farm projects, the Commission requires permit applicants to include “an analysis of the potential impacts of the project, proposed mitigative measures, and any adverse environmental effects that cannot be avoided,” in the following categories:

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<sup>3</sup> Minn. Stat. § 216F.03; Minn. R. 7854.1000, subp. 3.

<sup>4</sup> Minn. Stat. § 216F.02(a).

<sup>5</sup> Minn. Stat. § 216E.03, subd. 7(b).

- A. demographics, including people, homes, and businesses;
- B. noise;
- C. visual impacts;
- D. public services and infrastructure;
- E. cultural and archaeological impacts;
- F. recreational resources;
- G. public health and safety, including air traffic, electromagnetic fields, and security and traffic;
- H. hazardous materials;
- I. land-based economics, including agriculture, forestry, and mining;
- J. tourism and community benefits;
- K. topography;
- L. soils;
- M. geologic and groundwater resources;
- N. surface water and floodplain resources;
- O. wetlands;
- P. vegetation;
- Q. wildlife; and
- R. rare and unique natural resources.<sup>6</sup>

The Commission has the authority to include conditions in a permit that the Commission determines are reasonable to protect the environment, enhance sustainable development, and promote the efficient use of resources.<sup>7</sup>

### **III. The ALJ's Report**

The ALJ reviewed the statutory and regulatory site-permit criteria, applied the criteria to the proposed project, and found, in light of planned mitigation measures, that the project would not have significant impacts in any of the relevant categories. The ALJ found Stoneray's and the Department's proposed permit amendments reasonable and concluded that the project, with the revised permit conditions, satisfied the criteria for issuing a site permit. The ALJ recommended that the Commission issue a site permit to Stoneray with the changes recommended by Stoneray and the Department.

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<sup>6</sup> Minn. R. 7854.0500, subp. 7.

<sup>7</sup> Minn. Stat. § 216F.04(d); Minn. R. 7854.1000, subp. 4.

#### IV. The Department's Exceptions

The Department recommended revisions to six of the ALJ's findings of fact.<sup>8</sup>

##### A. Finding of Fact 2

Finding of fact 2 provides background information about the project, Stoneray, and Stoneray's parent company, EDF Renewable Energy (EDF). The Department recommended the following revisions to clarify that Stoneray, rather than EDF, is the holder of the original permit issued by the Environmental Quality Board in 2005, and that the original permit has not been revoked by the Commission:

2. enXco, now EDF, has developed several projects in Minnesota, including the Chanarambie Project in Murray County, which is adjacent to the planned Stoneray Project. ~~enXeo~~ Stoneray Power Partners, LLC was formerly granted a site permit on June 16, 2005, for a 105 MW project in the same area as this proposed Project. ~~enXeo, now EDF~~ Stoneray Power Partners, LLC has abandoned that project in favor of pursuing this Project and a new site permit. However, the existing site permit has not been officially revoked by the Commission.

##### B. Findings of Fact 70–72

Findings of fact 70–72 involve Pipestone and Murray counties' wind-farm ordinances. The Department recommended revisions to state that Murray County has assumed permitting authority for wind farms under 25 MW, to clarify that county wind-farm standards trump less stringent state standards unless the Commission finds good cause not to apply the county standards, and to clarify the Department's position with respect to setbacks for turbines and meteorological towers:

70. Both counties have specific Wind Energy Conversion System (WECS) ordinances. Both stipulate that the ordinances exist "to regulate the installation ... of WECS within Murray [Pipestone] County not otherwise subject to siting and oversight by the State of Minnesota." Murray County has also assumed permitting authority for LWECS under 25 MW under Minnesota Statute 216F.08.

71. Because the Project is proposed to be up to 105 MW, it meets the definition of a LWECS and it is subject to state regulation. The county ordinances are not applicable, except as subject to Minnesota Statute 216F.081.

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<sup>8</sup> The Department also pointed out a minor error in footnote 102 to finding 80. The footnote inadvertently cites the "Environmental Permit"; the reference should be to the "Environmental Report."

72. ~~Nonetheless,~~ EERA staff reviewed the Pipestone and Murray County ordinances to assess requirements of those ordinances in comparison to state-wide requirements. The setback provisions from dwellings in the county ordinances are less stringent than those imposed in recent state permits. Other requirements such as siting setbacks from roads are more stringent. EERA staff ~~initially~~ recommended that state setback requirements be used for turbines. The draft site permit does include the more stringent setback for meteorological towers of 1.1 times total height from road rights-of-way consistent with the WECs ordinances adopted in both Pipestone and Murray Counties (draft site permit section 13.2) and consistent with the expectations of Draft Site Permit Condition 4.11.

### C. Finding of Fact 81

Finding of fact 81 deals with the project's expected noise levels. The Department recommended that the finding be revised to state that modeling predicts that the project will not exceed applicable noise levels or result in significant impacts from noise:

81. ~~Based on this~~ The modeling, ~~it is not expected predicts~~ that the proposed Project would not exceed applicable noise limits. ~~No or result in significant impacts resulting from noise due to the proposed Project are anticipated.~~

### D. Finding of Fact 96

Finding of fact 96 states that “[e]lectric and magnetic fields and stray voltage are potential public health issues related to the construction of the Project.” The Department recommended that this finding be revised so as not to suggest that electric and magnetic fields in fact present public health problems, especially given conflicting language in finding 98: “Numerous studies and panels have investigated potential health effects of EMF, and generally have found little to no correlation between EMFs and health issues.”

The Department recommended revising finding 96 as follows:

96. Electric and magnetic fields and stray voltage ~~are~~ were raised by the public as potential public health issues related to the construction of the Project.

### V. Commission Action

Having reviewed the record, including Stoneray's site-permit application, the Department's environmental report, the parties' comments, and the ALJ's report, the Commission agrees with the parties and the ALJ that Stoneray has met the requirements for a wind-farm site permit. The Commission concurs in the ALJ's analysis and finds that the proposed wind farm is compatible with environmental preservation, sustainable development, and the efficient use of resources. The

Commission will adopt the ALJ's report with the Department's exceptions, as outlined above, since the Department's revisions enhance the report's accuracy.

The Commission will file this order in both this docket and Docket No. E-6473/WS-05-1301 to clarify that this site permit replaces the site permit issued to Stoneray by the Environmental Quality Board in 2005.

**ORDER**

1. The Commission adopts the ALJ's report with the Department's exceptions and issues an LWECS site permit to Stoneray Power Partners, LLC.
2. This order shall be filed in Docket No. E-6473/WS-05-1301.
3. This order shall become effective immediately.

BY ORDER OF THE COMMISSION



Burl W. Haar  
Executive Secretary



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