



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

**COMMENTS AND RECOMMENDATIONS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
ENERGY FACILITY PERMITTING STAFF**

DOCKET NO. PT6530/WS-06-157

Meeting Date: June 15, 2006Agenda Item # _____

Company: MinnDakota Wind, LLC, an affiliate of PPM Energy, Inc.

Docket No. **PUC Docket Number: PT6530/WS-06-157**

**In the Matter of the Application of MinnDakota Wind, LLC, for a
Large Wind Energy Conversion System Site Permit.**

Issue(s): Should the Minnesota Public Utilities Commission issue MinnDakota Wind, LLC, a site permit under Minnesota Statutes section 116C.694 to construct an up to 100-Megawatt Large Wind Energy Conversion System and Associated Facilities in Lincoln County, Minnesota?

DOC Staff: David Birkholz.....651-296-2878
Adam Sokolski651-296-2096

The enclosed materials are work papers of the Department of Commerce Energy Facility Permitting Staff. They are intended for use by the Public Utilities Commission and are based on information already in the record unless otherwise noted.

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Relevant Documents (in Commission Packet)

MinnDakota Wind, LLC, Application rec'd February 21, 2006 (#1)
MinnDakota Wind, LLC, Application Amendment rec'd March 10, 2006 (#3)
Comments of PPM Energy
on behalf of MinnDakota Wind, LLC..... rec'd May 25, 2006 (#10)

Documents Attached

- A. Proposed Findings of Fact and Conclusions
- B. Proposed Final Site Permit
- C. Exhibit List
- D. Public Comment Letters

(Note: see eDockets (06-157) or the PUC Facilities Permitting website for additional documents <http://energyfacilities.puc.state.mn.us/Docket.html?Id=4967>)

Statement of the Issue

Should the Minnesota Public Utilities Commission (the PUC or Commission) issue or deny a site permit to MinnDakota Wind, LLC, for up to a 100 MW large wind energy conversion system and associated facilities in Lincoln County, Minnesota?

Introduction and Background

A site permit from the PUC is required to construct a Large Wind Energy Conversion System (LWECS), which is any combination of wind turbines and associated facilities with the capacity to generate five (5) megawatts or more of electricity. This requirement became law in 1995 upon enactment of Minnesota Statutes, sections 116C.691 through 116C.697. The rules to implement the permitting requirements for LWECS are found in Minnesota Rules Chapter 4401.

The Applicant

MinnDakota Wind, LLC, is a wholly owned affiliate of PPM Energy, Inc, of Portland Oregon. PPM Energy develops and owns wind projects across the United States and natural gas generation operations in the western United States. PPM owns and operates the 100 MW Trimont Wind Project in Jackson and Martin counties and the 51 MW Moraine Wind Project in Pipestone and Murray counties, in Minnesota.

MinnDakota Wind, LLC, will own the Project including all equipment and associated facilities up to its interconnection to the “low side” busbar at the proposed Xcel Energy Yankee Substation. MinnDakota Wind, LLC, will be responsible for the project development, management, procurement, construction, commissioning, long-term operation and ownership of the project.

Project Location

The MinnDakota Wind Project will be built in both Minnesota and South Dakota.

The proposed project site in Minnesota is located in Lincoln County directly west and northwest of Lake Benton. The project site is approximately 31,084 acres and overlaps with several existing wind projects (see Figures 1-3 and 5-3 in the Amended Application). MinnDakota's proposed wind turbines may be placed in the following Minnesota townships:

- Verdi (T 109 N, R 46 W Sections 1-18)
- Drammen (T 110 N, R 46 W Sections 6, 7 13-15, 18-36)
- Shaokatan (T 111 N, R 46 W Sections 19, 30, and 31)

The proposed site comprises exclusively agricultural lands.

Project Description

The project's overall size is anticipated to be up to 199 MW in total. The site permit in Minnesota before the Commission proposes up to 100 MW of nameplate capacity. The project will be composed of up to 66 GE 1.5 MW or similar turbines. The balance of the development – up to 99 MW of nameplate capacity – will be built directly across the state border in Brookings County, South Dakota, and has received the requisite permits in that state.

The Applicant has easements or options on the land necessary within the site to build the project. Land rights will encompass the proposed wind farm and all associated facilities, including but not limited to wind and buffer easements, wind turbines, access roads, electrical collection system, project substation and feeder lines. The electrical system and feeder lines will be located on private easements along public roads when possible.

The electrical system will consist of overhead or underground 34.5 kilovolt (kV) feeder and collection lines. Other project components include: all-weather class 5 access roads of gravel or similar materials, pad-mounted step-up transformers, concrete and steel tower foundations, a supervisory control and data acquisition system, a meteorological tower, a project substation and an operations and maintenance building.

Power from the project will be sold and delivered to Xcel Energy at the Yankee Substation located in Section 5 of Verdi Township. A Power Purchase Agreement (PPA) between MinnDakota Wind, LLC, and Xcel Energy was approved by the Minnesota Public Utilities Commission at its hearing on April 20, 2006.

A Certificate of Need from the Minnesota Public Utilities Commission (PUC) is not required because the project is the result of Xcel Energy's 2001 Commission approved competitive bidding process.

The MinnDakota Wind, LLC, project is expected to be in commercial operation in late 2007, coincident with the in-service date of the Xcel Energy Yankee Substation.

Regulatory Process

Procedures

The site permit application has been reviewed pursuant to the requirements of Minnesota Statutes sections 116C.691 – 116C.697 and Minnesota Rules Chapter 4401 (Wind Siting Rules).

On February 21, 2006, PPM Energy filed an application on behalf of MinnDakota Wind, LLC, for a Large Wind Energy Conversion Site (LWECS) permit to construct, operate, maintain and manage a 100 Megawatt (MW) nameplate capacity wind facility and associated facilities in Lincoln County, Minnesota. An amended application was filed on March 10, 2006.

The PUC accepted the application on March 20 2006, and issued a Draft Site Permit on April 24, 2006. Upon the PUC order issuing a draft site permit, DOC EFP staff initiated the public review and notice requirements of Minnesota Rules Chapter 4401.

The rules provide opportunities for the public to participate in deliberations on the LWECS permit application. The Applicant provided notice and copies of the application to landowners within the project area after the application was submitted.

A public meeting was held in Hendricks, Minnesota, on May 9, 2006. About 20 people attended the public meeting. DOC EFP staff reviewed the permitting process requirements and responded to questions about the draft site permit and the permitting process. Representatives of MinnDakota Wind, LLC, were available to describe the project and answer questions.

The public comment period was held open through May 25, 2006.

Public Comments

No significant issues or concerns were raised about the permitting process, the proposed project, or conditions in the draft site permit at the public meeting or during the comment period.

At the public meeting, one member of the public asked questions and expressed a concern about the proximity of MinnDakota Wind, LLC, proposed wind turbines locations to existing wind turbines located in Section 31, Drammen Township.

On May 11, 2006, the Department received comment letters from owners of four existing wind turbines expressing concerns about the proximity of MinnDakota Wind, LLC, proposed wind turbine locations to existing wind turbines located in Section 31, Drammen Township. The persons above indicated concerns that the proximity of two of MinnDakota Wind, LLC, turbines may affect the production of the existing wind turbines owned by the persons above. (Exhibits 13-16)

As proposed in the Amended Application (Figure 1-3), the MinnDakota Wind, LLC turbines in Drammen Township section 31 are set back at least 5 RD (1,263 feet) generally west from the existing turbines in question. The set back from existing turbines meets or exceeds the requirements in the draft site permit.

Comments were received on May 24, 2006, from the Minnesota State Historic Preservation Office (SHPO) indicating that the Office had reviewed the proposed project and will review the cultural resources survey conducted by MinnDakota Wind, LLC, when available. Permit condition III. D. 2. requires consultation and coordination on cultural resources matters with SHPO. (Exhibit 17)

Comments were received on May 25, 2006, from Mr. Tim Seck of PPM Energy on behalf of MinnDakota Wind, LLC. Mr. Seck's comments provided suggestions on language contained in the draft site permit. (Exhibit 18) Several of Mr. Seck's concerns have been addressed in changes to the final permit.

A final site plan including final turbine locations is required to be provided to the Commission and DOC EFP staff prior to construction of the project. (see proposed final site permit III A (1)).

No person(s) requested a contested case proceeding be held on the MinnDakota Wind, LLC, application.

DOC EFP Staff Analysis and Comments

No significant issues were identified during the course of this proceeding.

Permit Changes from Draft

The following items are changes from the draft site permit included in the final site permit:

1. "I. Site Permit and Cover Page" *PPM Energy* changed to *MinnDakota Wind, LLC* as Project Owner.
2. "II. Project description" changed to include project substation, O&M facility and meteorological tower.
3. "II. Project description" changed to GE 1.5 MW turbine or similar turbine. (Or similar would take into account changes in provider or small changes in configuration; e.g., a Suzlon 1.8 at 80 meters hub height would qualify as similar, but not a Vestas 3.0 at 105 meters hub height.)
4. "II, E.3. Noise" altered to clarify turbine construction must meet current PCA noise restrictions *at the time of permitting*.
5. "III.C.1 Wind Access buffers" adding language setting 5 RD setback from existing turbine construction inside or outside of project boundary.
6. "III.H. Extraordinary events..." clarifying language that 24 hr notice period begins when permittee becomes aware of an extraordinary event.
7. "III.I.1. As built..." clarifying language on specifications to be reported (e.g. not internal turbine specifications).
8. "Exhibit 3" replacing DNR BMP for Topeka Shiner with USFWS BMP.

Record

A DOC EFP staff exhibit list of the written comments and other documents that are part of the record in this permit proceeding is included as “Attachment C” to these Comments and Recommendations. The DOC staff can make any of these documents available to a PUC member upon request. The Record will be available at the PUC meeting.

Findings of Fact and Conclusions

The staff has prepared proposed Findings of Fact and Conclusions for the project. See “Attachment A” in the Commissioner’s packet. The proposed Findings address the procedural aspects of the process followed, describe the project, respond to the written comment(s), and address the environmental and other considerations of the project. Many of the findings in the Findings of Fact reflect findings that were also made for other LWECs projects. The following outline identifies the categories of the Findings.

<u>Category</u>	<u>Findings</u>
Background and Procedure	(Findings Nos. 1 – 16)
The Permittee	(Findings Nos. 17 – 19)
Project Description	(Findings Nos. 20 – 28)
Wind Resource Considerations	(Findings Nos. 29 – 33)
Land Rights and Easement Agreements	(Findings Nos. 34 – 38)
Written Comments	(Findings Nos. 39 – 43)
Site Criteria	(Findings Nos. 44 – 85)
Site Permit Conditions	(Findings Nos. 86 – 88)

Standard for Permit Issuance

The statutory test the Commission must consider to issue a site permit for a Large Wind Energy Conversion System is to determine whether a proposed project is compatible with environmental preservation, sustainable development, and the efficient use of resources. Minnesota Statutes section 116C.693.

The law allows the PUC to place conditions on and/or deny, modify, suspend, or revoke a LWECs permit. Minnesota Statutes section 116C.694 (d). The conditions in this proposed Site Permit are similar to conditions included in other LWECs site permits issued by the Environmental Quality Board and the PUC (see “Attachment B”).

The wind statutes incorporate certain portions of the Power Plant Siting Act, including the environmental considerations. DOC EFP has reviewed and addressed the site criteria in the Findings of Fact (such as human settlement, noise, community benefits, and surface water), tracking the factors described in the PUC’s rules for other types of power plants that are pertinent to wind projects. (Minnesota Rules part 4400.3310).

DOC EFP Staff have incorporated site review, review of the environmental impacts, consistency with past permitting policy and local permitting ordinances, and analysis of public comments in the case to determine a recommendation to the PUC in this matter.

PUC Decision Options

- A.** Adopt the Findings of Fact and Conclusions and issue a Site Permit to MinnDakota Wind, LLC, with the conditions proposed by EFP staff. The site permit issued by the PUC authorizes MinnDakota Wind, LLC, to construct and operate an up to 100 MW Large Wind Energy Conversion System and associated facilities in Lincoln County, Minnesota, in accordance with the conditions contained in the site permit and in compliance with Minnesota Statutes section 116C.694 and in Minnesota Rules Chapter 4401.
- B.** Amend the Findings of Fact, Conclusions, or Site Permit as deemed appropriate.
- C.** Deny the site permit.
- D.** Make some other decision deemed more appropriate.

DOC EFP Staff Recommendation

The DOC EFP staff recommends option A.