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October 29, 2013

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

In the Matter of the Application of Odell Wind Farm, LLC for a Large Wind Energy
Conversation System Site Permit (PUC Docket No. IP-6914/WS-13-843)

Re: Reply to Applicant's October 18, 2013 Comments

Dear Dr. Haar:

In their October 18, 2013, Reply Comments letter, the Odell Wind Farm Applicant indicated Odell voluntarily agree to conduct Tier 3 wildlife studies. Department of Commerce – Energy Environmental Review and Analysis (EERA) staff agrees that the *U.S. Fish and Wildlife Service's (USFWS) Land Based Wind Energy Guidelines* are voluntary in nature. However, EERA staff would like to state that it does not view the Tier 3 wildlife studies currently being completed for the Odell Project as voluntary; it views them as necessary for completion of the environmental review of a State- issued Large Wind Energy Conversion System (LWECS) site permit. The voluntary nature of the *Land Based Wind Energy Guidelines* is limited to the Applicant's engagement with the USFWS, and should not be extended to the EERA's environmental review or the Commission's LWECS site permit process.

The Applicant went on to state, “the Minnesota Department of Natural Resources (MN DNR) indicated that the Odell project was likely to have low impacts to wildlife, provided certain precautions were taken.” The Applicant's statement fails to point out that the MN DNR's low risk statement is the department's initial impression, but MN DNR goes on to state it will need to review the on-going wildlife survey data to provide an estimated project risk level.

The Applicant's October 18, 2013, letter references the *USFWS Land Based Wind Energy Guidelines*, which state that a developer may proceed to obtain necessary site permits and to design and construction of the project if the Tier 2 results indicate a low probability of significant adverse impacts to wildlife. The Applicant is correct, but EERA believes this is an over simplification of the tiered review process and guidelines.

The *USFWS Land Based Wind Guidelines* provide the developer with questions to consider during siting and planning a wind project, two of which are relevant in this case:

1. Are known species of concern present on the proposed site, or is habitat (including designated critical habitat) present for these species?

Currently, the MN DNR lists the little brown myotis (*Myotis lucifugus*), tri-colored bat (*Permyotis subflavus*), northern long-eared bat (*Myotis septentrionalis*), and big brown bat (*Eptesicus fuscus*) as species of Special Concern. The *Odell Wind Farm: Wildlife Assessment and Field Studies Interim Report* states that these species are expected to occur near the site. However, without, at a minimum, acoustic bat surveys, the occurrence of these species within the project site is unknown; and, furthermore, the potential for project impacts to the species cannot be evaluated.

2. Which species of birds and bats, especially those known to be at risk by wind energy facilities, are likely to use the proposed site based on an assessment of site attributes?

The *Odell Wind Farm: Wildlife Assessment and Field Studies Interim Report*, also states that migratory tree roosting bats -- hoary bat (*Lasiurus cinereus*), Eastern red bat (*Lasiurus borealis*), and silver-haired bat (*Lasionycteris noctivagans*) -- comprise the majority of all bat fatalities associated with wind energy facilities, and all three species are known to occur in the state of Minnesota near the project site. Based on the above statement, additional Tier 3 studies are appropriate to confirm the presence of tree roosting bat species within the project site, and to evaluate the project's potential impacts to the bat species. The *Odell Wind Farm: Wildlife Assessment and Field Studies Interim Report* recommends the completion of Tier 3 acoustic monitoring study due to the likely passage of migratory tree bat species and results of the Tier 2 review.

EERA believes the tiered process within the USFWS Land Based Wind Guidelines would direct the developer to continue to Tier 3 and complete appropriate wildlife surveys, as opposed to continuing on to acquiring site permits and building the project based solely on the results of Tier 2 as suggested in the Applicant's October 18, 2013, letter.

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

Sincerely,



Richard Davis, EERA Staff