

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye
David C. Boyd
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Thomas Pugh
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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Northern States Power Company d/b/a Xcel Energy for a Certificate of Need for the Grand Meadow Wind Farm

ISSUE DATE: August 7, 2007

DOCKET NO. E-002/CN-07-873

ORDER VARYING TIME PERIOD,
ACCEPTING APPLICATION AS
COMPLETE, APPROVING USE OF
INFORMAL REVIEW PROCESS AND
COMBINING NEED AND SITING
PROCESSES WHERE PRACTICABLE

PROCEDURAL HISTORY

On June 25, 2007, Northern States Power Company, d/b/a Xcel Energy (Xcel or the Applicant), filed its application for a certificate of need for the Grand Meadow Wind Farm project.

On June 29, 2007, the Commission issued a Notice soliciting comments on the completeness of Xcel's application.

On July 9, 2007, the Department of Commerce (the Department) submitted comments on the completeness of the application with respect to Minn. Rules 7849. The Department recommended, among other things, the acceptance of the application upon the submission of additional data by Xcel.

On July 24, 2007, Xcel submitted the data requested by the Department.

On July 26, 2007, the Commission met to consider the matter.

FINDINGS AND CONCLUSIONS

I. Xcel's Request for a Certificate of Need

The Grand Meadow project for which Xcel is requesting a certificate of need is a 100.5 megawatt (MW) wind farm made up of sixty-seven 1.5 MW turbines. The project is located on an estimated

20 square miles in Mower County, Minnesota. The Grand Meadow project makes up approximately half of the 205.5 MW, 40 square mile site permit application filed by enXco Development Corporation.¹

Xcel's proposal is a large energy facility under Minn. Stat. § 216B.2421, subd. 2(1) and requires, therefore, a certificate of need from the Commission prior to construction.²

II. Department of Commerce Recommendations

The Department commented on the completeness of the application and the appropriate review process that should be used to develop the record and consider the merits of the petition. The Department found that the application could be considered complete upon the submission of the information required under Minn. Rules Part 7849.0250 C(9).³ Xcel submitted the requested data on July 24, 2007.

With respect to the review process to be utilized, the Department noted that the Grand Meadow project is a renewable resource intended to help Xcel meet its Renewable Energy Standard requirements under Minnesota law.⁴ The Department recommended that the Commission utilize an informal review process, such as has been ordered in other relatively uncomplicated certificate of need proceedings,⁵ to develop the record in this matter.

III. Commission Analysis and Action

A. Application Completeness

After review, the Commission finds that Xcel's application for a certificate of need is substantially complete as of July 24, 2007, with the receipt of the requested information submitted by Xcel.

¹ IP-6646/WS-07-839.

² See Minn. Stat. § 216B.243, subd. 2.

³ The rule provides as follows:

An applicant for a proposed LEGF must include:

(9) the major assumptions made in providing the information in subitems (1) to (8), including projected escalation rates for fuel costs and operating and maintenance costs, as well as projected capacity factors.

⁴ See Minn. Stat. § 216B.1691.

⁵ See, e.g., Docket No. E-017/CN-06-677, Order Accepting Filing as Substantially Complete, Requiring Additional Information, and Adopting Review Process (September 28, 2006).

B. Review Process

The Commission finds reasonable the Xcel's recommended informal review process for this matter. As it has in other relatively non-controversial matters where there are no material facts in dispute, and the parties and the Commission agree, the Commission concludes that informal review proceedings are an appropriate model to develop the record in this matter and determine whether a certificate of need should be granted.

As it has in other recent informal review proceedings,⁶ the Commission will order the review process to begin with a comment and reply period. Scheduling authority for the review process is delegated to the Executive Secretary. An Administrative Law Judge will be asked to conduct the required public hearing(s) and will be asked to file a summary of those hearings with the Commission.

The Commission, therefore, will utilize the alternative review process recommended by the Department, with which Xcel agrees. The Commission will defer and delegate the specifics of the proposed scheduling to the Commission's Executive Secretary.

C. Combined Need and Siting Process

The Commission combines need and siting proceedings for the same project whenever possible, to promote administrative efficiency and facilitate public participation. Here, too, the Commission will ask staff and the Administrative Law Judge to combine this proceeding and the siting proceeding to the extent practicable.

D. Time Line for Acting on Completeness of Application Extended

The rules require the Commission to determine within 30 days of filing whether or not a certificate of need application is substantially complete.⁷ The 30 day deadline for this application fell on Wednesday, July 25, 2007, the day before the scheduled Commission meeting to consider completeness. Commission staff therefore requested the Commission to vary the timing requirement to allow time for the Commission to meet and an order to issue.

Under Minn. Rules 7829.3200, the Commission is authorized to vary its rules upon making the following findings:

1. Enforcing the rule would impose an excessive burden upon the applicant or others affected by the rule;

⁶ See, e.g., Docket No. ET-2/CN-06-367, Order Accepting Filing As Substantially Complete, Requiring Additional Information, and Adopting Review Process (September 7, 2006).

⁷ Minn. Rules 7849.0200, subp. 5.

2. Granting the variance would not adversely affect the public interest; and
3. Granting the variance would not conflict with any standards imposed by law.

To avoid delay and inefficiency as the case progresses, it is critical to begin with a substantially complete filing. Xcel filed the additional information requested on July 24, 2007. Varying the deadline for Commission consideration allows the record to proceed as substantially complete, imposes no burden on the applicant or others, does not adversely affect the public interest, and does not conflict with any standard imposed by law. The Commission therefore will vary the 30 day time period provided under Minn. Rules 7849.0200, subp. 5, to allow time for consideration of this matter and an order to be issued.

E. Miscellaneous Issues

The Commission will designate Bret Eknes, 651-296-2236, Bret.Eknes@state.mn.us as the Commission employee to facilitate citizen participation in the review process.

The Commission also requests the Department of Commerce continue to study issues and indicate during the hearing process its position on the reasonableness of granting a certificate to Xcel.

The Commission shall so order.

ORDER

1. The Commission varies the 30 day time period required under Minn. Rules 7849.0200 for determining completeness.
2. The Commission accepts the application as substantially complete as of July 24, 2007.
3. The Commission approves the use of an informal review process and delegates scheduling authority to the Executive Secretary.
4. Siting and routing processes will be combined to the extent practicable.
5. Xcel shall facilitate in every reasonable way the continued examination of the issues by the Department of Commerce.
6. Xcel shall place all the materials submitted in this docket on a website, available to the public.
7. The Commission will request an Administrative Law Judge to conduct the required public hearings on the application, to file a summary of those hearings with the Commission, and to work with Commission staff and the staff of the Department of Commerce in selecting suitable locations for the public hearings on the application.

8. Xcel shall work with staff of the Commission and the Department to arrange for publication of the notice of the hearings in newspapers of general circulation at least ten (10) days prior to the hearings, that such notice be in the form of visible display ads, and proofs of publication of such ads be obtained from the newspapers selected.
9. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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