

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of
Heartland Wind, LLC for a Certificate of
Need for the Elm Creek II Wind Project in
Jackson and Martin Counties

SUMMARY OF PUBLIC TESTIMONY

This proceeding began on August 28, 2009, when the Minnesota Public Utilities Commission (Commission or MPUC) issued an Order directing an informal review process of the application of Heartland Wind, LLC, for a Certificate of Need (CON) for the Elm Creek II Wind Project and requesting the Office of Administrative Hearings (OAH) to conduct a public hearing on the Project and provide a summary of the public hearing testimony to the Commission.

Administrative Law Judge Bruce Johnson (the ALJ) conducted that public hearing on December 15, 2009, at 6:00 p.m. at the AmericInn of Jackson, 110 Belmont Lane, Jackson, Minnesota. Approximately seventeen members of the public attended the public hearing, and the ALJ provided the members of the public in attendance with an opportunity to present their views about the need for the Project. The period for written comment closed on December 23, 2009.

NOTICE

This report contains a summary of public testimony. It is not a final decision. Pursuant to Minn. R. 7850.3900, the Commission will make the final determination of the matter after receiving the public hearing record from the ALJ.

Description of the Project

Heartland Wind, LLC (Heartland), which is a wholly-owned subsidiary of Iberdrola Renewables, Inc. (Iberdrola), is proposing to develop and construct the Elm Creek II Wind Project (the Project) as a 150 megawatt (MW) large wind energy conversion system. The Project's purpose will be to produce renewable energy that will help meet the state's renewable energy objectives. The Project will be located on approximately 30,339 acres in Enterprise and Wisconsin Townships in Jackson County and in Cedar, Elm Creek, and Jay Townships in Martin County. That area is predominantly in agricultural use and has a relatively low population density.

The Project will consist of between 50 and 100 wind turbines, with rated outputs between 1.5 and 3.0 MW, in order to yield 150 MW of electrical power. Each turbine will be connected to a supervisory control and data acquisition (SCADA) system via fiber optic cable to allow for real-time monitoring and control of turbine operation. Other associated facilities will include gravel access roads, expansion of an existing substation, an expanded or new operation and maintenance building, two meteorological towers, and an electrical collection system. The Project will interconnect to the transmission grid at the existing Trimont Substation, which is connected to Xcel Energy's Lakefield Substation via an existing 345k transmission line.

Procedural History

1. Heartland filed an application with the Commission for a CON for the Project on June 8, 2009.¹

2. On June 26, 2009, the Commission issued an Order granting certain exemptions from the CON filing requirements in accordance with recommendations made by the Office of Energy Security of the Minnesota Department of Commerce (the OES).²

3. On August 4, 2009, the Commission found Heartland's CON application to be complete.³

4. On August 28, 2009, the Commission authorized use of the informal process authorized by Minn. R. 7829.1200 and directed that an administrative law judge conduct a public hearing on the application and provide the Commission with a summary of public testimony.⁴

5. On November 23, 2009, OES issued a Notice of Availability of the Environmental Report for the Project.⁵

Hearing Notice, Public Hearing, and Public Comment Process

6. On November 30, 2009, the Commission issued a Notice of Public Hearing for a public hearing to be conducted on December 15, 2009. On November 30, 2009, Heartland gave advance notice of the public hearing to persons on the service list.

¹ Application for a Certificate of Need
(<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=20096-38322-01>)

² Order on Exemption and Variance Request
(<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=20096-38953-01>)

³ Order Finding CON Application to be Complete
(<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=20098-40454-01>)

⁴ Order Authorizing Informal Process
(<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=20098-41275-01>)

⁵ Notice of Availability of Environmental Report
(<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=200912-44561-01>)

7. On November 26, 2009, the Notice of Public Hearing was published in the Jackson County Pilot, a local newspaper.⁶ That Notice was also published on December 1, 2009, in the Fairmont Sentinel.⁷

8. The ALJ conducted a public hearing on the Project on December 15, 2009, at 6:00 p.m. at the AmericInn of Jackson, 110 Belmont Lane, Jackson, Minnesota. Approximately 17 members of the public appeared at the public hearing; four members of the public offered testimony about the proposed Project and related issues. After the hearing, the record remained open for eight days to allow all interested persons to submit written comments. Written comments were efiled by Heartland; no other written comments were received. The record was closed on December 23, 2009.

9. The Commission will issue an order on Heartland's application for a Certificate of Need after examining this Summary, a copy of the digital recording of the public hearing, and all filings and argument submitted by Heartland, the OES, and other persons and entities interested in this matter.

Summary of Public Testimony

Bret Eknes, a staff representative of the Commission, explained the Commission's role in considering Heartland's CON application. Mr. Eknes also explained how members of the public could gain web access to all documents filed in connection with this docket.

Matthew Langan, Project Manager with the OES discussed the OES's responsibilities associated with processing the CON application. He also stated that in November 2009, the OES had issued an Environmental Report on the Project.⁸ Mr. Langan explained that the Environmental Report was a general document discussing the potential human and environmental impacts of the Project, as proposed, as well as any alternatives to the Project. That report also assessed possible mitigation of potential adverse impacts of the Project.

Adam Sokolski, representing Iberdrola and Heartland, is lead developer for the Project. Mr. Sokolski provided background on the need for and features of the Project. He indicated that the project was being developed to help satisfy state and regional demands for renewable energy, as well as to respond to the increasing regional demand for electric energy generally. Mr. Sokolski also stated that Heartland had also been the developer of the Trimont and Elm Creek I Projects north of the City of Jackson, and that this Project was being developed in the same way in which the two earlier projects had been developed. He also stated that this Project was being developed in partnership with I-90 Wind, a landowner company which had been

⁶ Affidavit of Publication.

(<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=200912-45315-01>)

⁷ Exs. 1 (<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=200912-44726-01>); Ex. 2.

⁸ Environmental Report

(<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=200911-44359-01>)

Heartland's partner in the Trimont and Elm Creek I projects. This Project will involve construction of between 50 and 100 wind generators, depending on the type of generator selected, collectively having a rated capacity of 150 MW. Mr. Sokolski indicated that since mid-October, Heartland has been conducting a number of Project-related surveys and studies, including surveys to delineate wetland areas and potential generator locations, as well as geotechnical and other studies. Heartland plans to have the Project construction ready by the spring of 2010 and ready to break ground in late May or early June 2010.

Kent Ringkob, a landowner and participant in the Project, spoke in its favor. Mr. Ringkob expressed his belief that the Project will be an environmentally friendly way of providing electricity for a growing market in the Upper Midwest. He also believes that the Project will provide economic benefits to rural areas of Jackson and Martin Counties, including the creation of needed jobs.

Tim Stahl, the Jackson County Engineer, indicated that he would prefer to have more information in greater detail about the impacts that construction of the Project will have on county roads. He stated that although there was a suggestion that the Project will have minimal impacts on existing infrastructure, the County's experience with earlier wind projects indicated that the capacity limits for both county paved roads and township gravel roads are likely to be exceeded during movements of construction equipment. Mr. Stahl wanted more information about how that prospect would be addressed. He also indicated that prior experience indicated the likelihood of other adverse traffic impacts, such as road closures, detours, removal and replacement of signage, and ensuring unimpeded access of emergency vehicles. Mr. Stahl believed that there needed to be more specific plans to address those adverse impacts, and he looked forward to working with representatives of Heartland to develop and implement those more specific plans.

Barbara Jordi stated that she and her husband own a six-acre homestead within the Project area, and that they operate a business that is heavily dependent on internet connectivity. They currently receive internet service from an internet service provider (ISP) that delivers their service via a line-of sight microwave signal, and they are concerned about the extent to which noise created by the Project, as well as movement of turbine blades, might disrupt their business by disrupting their internet service. She also expressed concern how the Project might impact a potential sale of their home.

Mr. Sokolski indicated that Heartland had already contacted Mr. and Mrs. Jordi's ISP and had identified the tower from which they receive the transmission for their internet service. Consulting with engineers employed by the ISP, Heartland determined that a couple of the proposed sites for the Project's wind turbines needed to be shifted to ensure that turbine blades would not interrupt the line-of-site transmission of the Jordi's internet service. Those siting adjustments have been incorporated into Project plans. With regard to operational noise, Mr. Sokolski stated that in developing the Project, Heartland is strictly complying with the standards set forth in the Minnesota Pollution Control Agency's noise abatement rules. More specifically, ongoing noise studies indicate that noise levels everywhere on Mr. and Mrs. Jordi's six-acre

homestead will be well below applicable noise standards. Finally, Heartland provided Mr. and Mrs. Jordi with copies of studies made of property value impacts from wind turbines.

Mr. Stahl inquired whether turbine siting is being coordinated with deployment by the Department of Transportation (MnDOT) of the ARMER emergency communications system, which will allow interconnection of communications between various regional emergency services responders. More specifically, Mr. Stahl asked whether there has been coordination to avoid disruption of the high frequency line-of-sight transmissions between the towers that will be constructed to interconnect emergency transmissions in Jackson, Martin, and Cottonwood Counties. Jackson County Commissioner Loren Tusa indicated that the site of the Jackson County ARMER transmission tower has been selected, but that the tower has not yet been constructed. It was therefore possible that an FCC permit for transmissions from that tower had not yet been obtained. Mr. Sokolski indicated he would contact MnDOT on the next day to obtain the coordinates for all ARMER systems that will bisect the Project area, and that Heartland would work with MnDOT to ensure that those systems will not be adversely affected by the Project.

Commissioner Tusa went on to comment more generally that the Project is expected to result in the creation of jobs and to promote future economic development within Jackson County. He noted that there were a lot of public concerns about the first Jackson County wind project; that fewer public concerns were expressed about the second wind project; and that there has been very little negative comment about the current Project, as county residents have become more familiar with wind project operations.

Summary of Written Comment

On December 23, 2009, Adam Sokolski submitted written comments to the ALJ on behalf of Iberdrola Renewables, Inc., by e-filing them in this docket. In his comments, Mr. Sokolski requested the Commission to grant a CON for the Project as soon as possible. He noted that no party or member of the public objected to the Project, disputed that the Project was needed, or recommended that the CON be denied. Mr. Sokolski went on to note what he considered to be some minor discrepancies in the Environmental Report. His comments also raised more substantive criticisms of the following statement in Section 6.10 of the Environmental Report:

Wind turbines produce audible, low frequency sound and sub-audible sound (infrasound). These sounds can have a rhythmic modulation due to the spinning of the turbine blades. Impacts due to these sound characteristics are subjective, i.e., human sensitivity, especially to low frequency sound, is variable. However, in general, low frequency sounds can cause annoyance and sleep disturbance.

The above language summarizes what Iberdrola considers to be a controversial portion of the Minnesota Department of Health (MDH) White Paper, "Public Health Impacts of

Wind Turbines.” Responding to that white paper, Mr. Sokolski included the following attachments to his written comments, which expressed conclusions about the health effects of wind turbines that varied from those expressed in MDH’s white paper:

- a. Written comments submitted by Iberdrola to the MPUC on September 16, 2009, in PUC Docket E999/CI-09-845, *In the Matter of the Commission Investigation into Large Wind Energy Conversion System Permit Conditions on Setbacks and the Minnesota Department of Health Environmental Health Division’s White Paper on Public Health Impacts of Wind Turbines*;⁹
- b. Review of Minnesota Department of Health’s "Public Health Impacts of Wind Turbines" prepared by Mark Bastasch, P.E., on September 16, 2009;¹⁰ and
- c. *Wind Turbine Sound and Health Effects: An Expert Panel Review*, prepared by W. David Colby, M.D., Robert Dobie, M.D., Geoff Leventhall, Ph.D., Geoff Leventhall, Ph.D., David M. Lipscomb, Ph.D., Robert J. McCunney, M.D., Michael T. Seilo, Ph.D., and Bo Søndergaard, M.Sc.¹¹

Finally, Mr. Sokolski also included some comments on the draft site permit.¹²

No other written comments from the public were received.

Dated: January 12, 2010

s/Bruce H. Johnson

BRUCE H. JOHNSON
Assistant Chief Administrative Law Judge

Digitally recorded; no transcript prepared.

⁹ Attachment A, Part 1 of 2
(<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=200912-45360-04>)

¹⁰ Attachment A, Part 2 of 2
(<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=200912-45360-08>)

¹¹ Attachment B
(<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=200912-45360-02>)

¹² Applicant Comments
(<https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=200912-45360-06>)