OAH DOCKET NO. 16-2500-22263-2
PUC DOCKET NO. IP-6844/CN-10-429 and
IP-6844/WS-10-438

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE PUBLIC UTILITES COMMISSION

In the Matter of the Application of Prairie Wind Energy Project, LLC, for a Certificate of Need and a Large Wind Energy Conversion System Site Permit

SUMMARY OF PUBLIC COMMENT

1. A public hearing was held before Administrative Law Judge Manuel J. Cervantes on October 4, 2011, at 7:00 p.m., at the Prairie Event Center, 201 West Main Street, Parkers Prairie, Minnesota. The purpose of the hearing was to solicit public comment regarding the application of Prairie Wind Energy Project, LLC, (PWE or Applicant) for a Certificate of Need and Site Permit required to build the proposed large energy facility. The public hearing continued until all interested persons had an opportunity to be heard.

2. Nearly one hundred members of the public attended the public hearing and sixty-one signed the hearing roster. Thirteen members of the public testified during the hearing. After the hearing, the record remained open for fifteen days to allow all interested persons to submit written comments. Twenty-seven members of the public filed written comments. The record closed on October 19, 2011.

3. Administrative Law Judge Manuel J. Cervantes began the hearing by explaining that the purpose of the public hearing was to solicit public comments regarding the certificate of need and site permit. Michael Kuluzniac, Senior Energy Facility Planner, Public Utilities Commission (PUC), briefly explained the purpose of the hearing. Mr. David Birkholz, State Permit Manager, Office of Energy Resources, Department of Commerce, explained that the hearing requirements for the certificate of need and the siting permit were combined into one hearing to be held that evening. He invited the public to review the final Environmental Report, filed September 6, 2011, which was available to the public for viewing at the hearing. Mr. Birkholz also invited the public to comment on the issues related to both the certificate of need and the site permit. Mr. Birkholz submitted, and the Administrative Law Judge received, a copy of the Environmental Report[1] and copies of the requisite legal notices.[2]

[1] Exhibit (Ex.) 5.
[2] Exs. 1-4 and 6-8.

4. Amanda Sanvik, Co-Developer, PWE, gave a short explanation of the project origins. She highlighted the potential benefits to participating landowners who will receive annual lease or easement payments.[3] The local community can also benefit by receipt of an annual production tax, estimated to be $320,000 for the county and $80,000 for the townships. In addition, up to 150 workers will be required for the build-out, bringing additional commerce and revenues to the local community. The presenters were available to answer questions after the Administrative Law Judge concluded the recorded comments of the public hearing. John Gasele, counsel for the Applicant, and Terry Carlson, company representative, were also present on behalf of the Applicant.

Background on the Application

5. PWE proposes to construct, own, and operate a large energy facility with a capacity of up to 100 MW. The proposed project consists of up to forty-one 2.4 MW wind turbine generators yielding a total nameplate capacity of 98.4 MW. PWE, however, is requesting a total nameplate capacity of 100 MW, allowing the final number and size of turbines to be dictated by the terms of a Power Purchase Agreement, market conditions, and other relevant factors. The hub height of the turbines is estimated to be 91 meters with rotor diameters of 117 meters, resulting in a maximum overall height of 150 meters when one blade is in the vertical position.

6. The project is in southeastern Otter Tail County, approximately one mile from the community of Parkers Prairie. Most of the project is located west of State Highway (SH) 29 and north of SH 235 in the townships of Parkers Prairie and Elmo. Other townships within the project area include Effington and Folden. The total project area is 23,921 acres; PWE currently has approximately 8,000 acres under lease for the project.

7. The project includes gravel roads, underground conductors installed between turbines; 34.5 kV underground feeders or, if necessary, overhead feeders to collect power from underground conductors, installation of a Supervisory Control and Data Acquisition system, construction of a substation adjacent to an existing Great River Energy 115 kV transmission line located in Section 10 of Parkers Prairie Township, construction of an Operation and Maintenance facility, and one or two additional meteorological towers in addition to the two towers currently located in the project area.

8. Issues were raised at the hearing by landowners and other community members in the proposed project areas, including the potential devaluation of property, degradation of the scenic views because of the proposed towers, health and safety concerns, risks the turbines pose to migratory birds and to crop sprayers.

Summary of Public Testimony

[3] Twenty-three landowners have signed up for turbines and others have signed easement agreements.

Need for the Project

9. Jim Dubarowski challenged the need for the project. He referenced Minnesota's high ranking for total wind energy production and his understanding that Minnesota's utilities have met or exceeded the Renewable Energy Standards. He believed that there is an important difference between "wanting" more wind energy and "needing" more wind energy. Also, he believed that the project disproportionately benefits a few people at the expense of the larger community, and questions whether it will be a profitable long-term business and provide jobs in the community.[4]

10. Fred Liljegren also questioned the need for the project. He had made calls to three utilities, Otter Tail Power, Great River Energy and Xcel Energy, and was told that they were on target to meet their need for renewable energy. In light of their responses, and other information about cost, Mr. Liljegren doubted that the Applicant would be able to find a buyer for its energy.[5] Although Ms. Sanvik was not able to disclose the details of the Applicant's negotiations, she was confident that the price this project could offer would be competitive.[6]

Economic benefit to the community

11. Some members of the public doubted the project's economic benefit to the community. At hearing, Bob Preus asked for an explanation of the benefits.[7] Ms. Sanvik referenced the production tax credit, based on the projected turbine output, jobs during construction and possible permanent jobs.[8] Based on his research, Rodney Peterson was also concerned that consumers' electric rates would rise with increased reliance on wind energy.[9]

12. Fred Liljegren raised questions about the allocation of the energy production tax. Mr. Birkholz clarified that the tax is divided 80 percent to the local county and 20 percent to the townships, with no tax proceeds going to the school district under current law.[10]

Health Concerns

13. Claudia Liljegren stated that many farmers in the area do not support the project and asserted that the wind turbines may have several negative impacts on health. Because of her concerns, she asked questions about the setback requirements for the turbines. Ms. Sanvik replied that the setback from homes is 1,000 feet. Ms.

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[4] Email dated Oct. 20, 2011, Edocket Doc. No. 201111-68061.
[5] Transcript page (T.) 28-31.
[6] T. 31-34.
[7] T. 51.
[8] T. 51-53 55-56.
[9] T. 77-79, and Public Exhibit 9.
[10] T. 22-27.

Liljegren commented that "wind turbine syndrome" may contribute to high blood pressure, headaches, depression, nervousness, nausea, tachycardia, sleeping disturbance, upper lip quivering, hearing loss, a sense of loss of body control, irritability and other symptoms.[11] Ms. Sanvik replied that the research surrounding this condition and other health problems is inconclusive. She cited a 2010 PUC briefing paper which indicated that there were only 3 noise complaints relative to the 1400 turbines in use in Minnesota. Two of the complaints related to mechanical issues and were resolved mechanically. The third related to noise. After review, it was found that the turbine met the state noise guidelines.[12]

14. Ms. Sanvik pointed out that many members of her own family live within the project footprint, including her parents and aunt and uncle. She believed that there will not be negative health effects, and, if any develop, that the Applicant will address them.[13]

15. Bob Preuss asked questions about the noise from the project, and whether the cumulative effect of many turbines had been calculated. Ms. Sanvik referred to the Applicant's noise study, which was included in its application. Also, Mr. Birkholz stated that the final decision concerning compliance with permit conditions is dependent on the final turbine layout.[14] Mr. Preuss was aware that in another instance, the Commission may have set different set-backs for participating and non-participating landowners.[15]

16. Jane Bartlett raised concerns about the ice chunks that can be thrown by the blades, citing a report from Switzerland, and the risk that a chunk would hit a child nearby. Although the risk may be small, she was concerned that the harm could be great.[16]

Highway Safety

17. Gene Bremer expressed his concern about the safety to those driving along SH 29, north of Parkers Prairie. The towers would be visible along a dangerous stretch of road that includes a sharp turn in proximity to a lake. He fears that the towers would present an additional distraction to drivers and should be moved out of the drivers' sightline.[17]

Project Details

18. Bob Preuss was concerned that it was difficult to get a clear explanation of the number of landowners with whom the Applicant had made agreements and the

[11] T. 37-38.
[12] T. 41.
[13] T. 42.
[14] T. 62-64.
[15] T. 64.
[16] T. 98-100.
[17] Email dated Oct. 7, 2011, Edocket Doc. No. 201111-68061.

number and location of the total planned turbines. He believed that community members wanted to know exactly how many turbines were planned and where each of them would be located.[18] The Applicant conceded that the final decisions on the number and exact location of the turbines had not been made.[19]

19. Rodney Peterson asked questions about the timing of construction, and whether it must start within two years of the project approval. Mr. Kaluzniak and Mr. Birkholz responded to Mr. Peterson's questions.[20]

20. Delmer Schmidt asked questions about the liability for workers injured during construction, and Ms. Sanvik replied that the Applicant, not the landowners, is liable for injuries.[21] Mr. Schmidt asked whether the wind turbines would all be the same size or would vary in size, and Ms. Sanvik replied that they would likely all be the same or close to the same size.[22] Mr. Schmidt asked who would be responsible for the turbines after they exceeded their useful life, and Ms. Sanvik explained that the company must have a decommissioning plan to remove turbines that are no longer useful.[23]

Community Opposition

21. Some community members expressed many reservations with all aspects of the proposed project. For example, Claudia Liljegren submitted a letter identifying a broad array of negative effects the proposed project would have on human health and the environment, including the effects of noise, shadow flicker, sleep disturbance, anxiety, depression, and "wind turbine syndrome." She was also concerned with the impact on wildlife Ms. Liljegren also submitted a list of questions that she does not believe have been adequately addressed, covering many different topics, including taxes, liability, property destruction and maintenance, easements on county roads, costs to the community, uncertainty of precise tower locations, terms of the power purchase agreements and contracts with landowners, employment, declining property values, health concerns, interference with communication systems, the impact on aerial spraying as well as the environmental impact. Ms. Liljegren included a petition signed by persons who live within the bounds of the project and are opposed to it. The petition includes over 60 signatures; a few signatures appear more than once.[24] Ms. Liljegren also expressed her objection to the project at the public hearing.[25]

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[18] T. 43-51.
[19] T. 46-51.
[20] T. 66-73.
[21] T. 80-81.
[22] T. 81-82.
[23] T. 82-83.
[24] Letter dated Oct. 11, 2011, Edocket Doc. No. 201110-67348; *See also* Memo from James L. Cronk, Oct. 4. 2011, Edocket Doc. No. 201110-67348; Email from Martin and Michelle Weibye dated Oct. 17, 2011, Edocket Doc. No. 201110-67547; Email from Todd Lorsung, Oct. 19, 2011, Edocket Doc. No. 201110-67547; Email from Steve and Christine Martinson, Oct. 19, 2011, Edocket Doc. No. 201110-67547; Email from Allen Ost, Oct. 19, 2011, Edocket Doc. No. 201110-67547.
[25] T. 37-42.

22. Jay Ellsworth also voiced a number of concerns. He believes that there is no need for the project because the Renewable Energy Standards have been met; wind is an intermittent energy source; wind development is dependent on government subsidies; the turbines will have a negative effect on the view of the landscape, property value and wildlife; and the wind project will offer little permanent employment. [26] Mr. Ellworth's views were shared by Gary Martinson.[27]

23. Jane Bartlett stated that she and her husband had signed leases to host a wind turbine but now had second thoughts. The size and scale of the project exceeded their original understanding, and there may be more significant health risks than they initially realized. She challenged the Applicant's assertion about job creation, health and safety, and property value.[28]

24. Gary Plath stated that he believed that, because of the beauty and quiet of the area, its future economic viability was best served by encouraging persons who were retiring to move to the area. He opposed the introduction of the turbines because of the aesthetic effect, the potential loss of wildlife, and the small potential for job creation. He did not believe that there has been sufficient research on the long-term impact of installing a number of wind turbines within an area. He also fears a loss of property value, believing that property buyers will avoid homes within sight of the wind turbines. Mr. Plath asserted that there are many other community members who are opposed to the project but fear that it is pointless to state their objections because they have very limited influence to exert on the process.[29]

Aerial Spraying

25. Among the concerns raised by opponents was the potential impact on aerial spraying, including the impact caused by the meteorological towers.[30] Ken Peterson who sprays in the area was concerned that he will no longer be able to do so. About twenty percent of his business is within the project's footprint, and he is concerned that he will not be reimbursed for his losses. He explained the height at which he flies and his concern about the safety of attempting to avoid the rotating blades.[31] Ms. Sanvik stated that the company had discussed siting turbines with Mr. Peterson, to minimize the impact to the extent possible, but also explained that there were difficulties moving the site to other nearby locations.[32]

26. Mr. Peterson also expressed concern that farmers on the land would suffer lost production if the spraying could not be done.[33]

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[26] Email dated Oct. 13, 2011, Edocket Doc. No. 201111-68061.
[27] Email dated Oct. 20, 2011, Edocket Doc. No. 201111-68061; *see also* T. 57-58, 61 (Bob Preuss).
[28] T. 98-104.
[29] T. 108-114.
[30] *See e.g.* T. 75 (Rodney Peterson).
[31] T. 85-89, 91-92
[32] T. 86-90.
[33] T. 90.

27. However, others stated that aerial spraying would not necessarily be impacted. Del Glanzer, an independent crop consultant, supported the project and noted that aerial applicators use GPS systems that would enable them to fly around wind generators.[34]

28. Glenn Olson is a landowner who hopes to have a minimum of six turbines on his property. He believes that there will be benefits from the project and that the location of the turbines will not disturb his neighbors and will minimally interfere with aerial spraying.[35]

29. Derek and Gillie McGown support the project. Although they are aware that some persons are concerned about the impact of the turbines on aerial spraying, they believe that most of those who are concerned are tenants and not landowners. Also, although they do not minimize the possible impact, in their view, other methods of spraying are available.[36]

Comments Offered by the Department of Natural Resources (DNR)

30. Jamie Schrenzel, Principal Planner, Environmental Review Unit, submitted comments on behalf of the Minnesota DNR. Ms. Schrenzel noted that the proposed project lies within the Hardwood Hills Subsection of the Eastern Broadleaf Forest Province, which contains significant biodiversity with wetlands, lakes, prairie, grasslands and woodland habitat. Six Wildlife Management Areas are adjacent or near to the project area. It contains tracts of Waterfowl Production Areas managed by the U.S. Fish and Wildlife Service and numerous areas enrolled in both the Conservation Reserve Program and Reinvest in Minnesota. The Minnesota County Biological Survey has identified several "Sites of Biodiversity Significance" within and adjacent to the proposed project area.[37]

31. Ms. Schrenzel stated that the project developers have discussed many topics related to the natural resources in the area, made several modifications, and agreed to conduct certain pre-construction surveys. Because of the high incidence of natural resources in the area, the DNR recommends that the site permit require a specific plan to address those resources.[38]

32. The Applicant's proposed modifications to the project have increased the DNR's concern about potential avian impact due to collision, and habitat avoidance and fragmentation. The DNR's letter identified several specific concerns about turbine

[34] Email dated Oct. 19, 2011, Edocket Doc. No. 201110-67547.
[35] T. 95-97.
[36] Email dated Oct. 14, 2011, Edocket Doc. No. 201110-67422.
[37] Letter dated Oct. 19, 2011, Edocket Doc. No. 201111-68061.
[38] *Id.*

location, and the DNR recommends that those turbines proposed for areas of greatest concern be eliminated or moved to alternate sites.[39]

33. Ms. Schrenzel noted that the site permit would include an Avian and Bat Protection Plan, but stressed that the Plan would better serve the project if much of the planning was completed prior to the permit decision. This would assure that the Commission better understood the potential avian impact and mitigation measures and assure timely agency input to the process.[40]

34. Because the proposed project is close to large areas of wetlands and shallow lakes, and surrounding areas of ecological significance, and because of the potential for the turbines to increase avian and bat mortality, the DNR requests that the Avian and Bat Protection Plan require two years of fatality surveys, based on pre-construction surveys conducted in the project area. The DNR has provided protocols and surveys to the Department of Commerce, Energy Facility Planning.[41]

Request for a Contested Case Hearing

35. James L. Cronk requested that the Commission schedule a contested case hearing to address the site permit because of the number of issues he felt were inadequately addressed at the public hearing.[42] Bob Preus also requested a contested case.[43]

Support for the Project

36. Christine Hoffman expressed her support for the Project. Not only will it provide a "clean" form of energy, but she finds the turbines to be aesthetically pleasing. Ms. Hoffman noted that she enjoys running near the two turbines on University of Minnesota, Morris campus, and hearing the quiet swoosh of the turbines.[44]

37. Lewis Struthers lives in Parkers Prairie and is a retired family physician who practiced medicine in the community for 39 years. Dr. Struthers supported the project because it will help reduce dependence on fossil fuels and will provide some additional income to the community. He has stood beneath the wind turbine at the University of Minnesota, Morris and was not bothered by the noise, which compared favorably to the noise from passing trains. He noted that residents have adjusted to the trains passing through at night.[45]

38. Derek and Gillie McGowan supported the project because they believe that Parkers Prairie needs to encourage and attract new jobs. Although the area

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[39] *Id.*
[40] *Id.*
[41] *Id.*
[42] Memo dated Oct. 4, 2011, Edocket Doc. No. 201110-67348.
[43] T. 121.
[44] Email dated Oct. 8, 2011, Edocket Doc. No. 201111-68061.
[45] Letter received Oct. 17, 2011, Edocket Doc. No. 201111-68061.

formerly had a high number of family farms, that is no longer true and much of the land is farmed by tenants. They believed that the proposed project will increase revenue for the landowners and increase the wealth of the community. Mr. McGowan is a professional engineer and technical manager who spent 30 years in the oil industry in the development and operations of both offshore and onshore oil fields. However, he believed in a balanced energy policy that includes wind and solar power, and pointed out that most large oil companies have a diverse energy portfolio that consists of both hydrocarbon fuels and renewable energy projects.[46]

39. Dale Duits expressed his support for the project. He anticipated that one of the turbines will be located on his property. He saw the project as a good option to dependence on fossil fuel and an opportunity for local landowners to benefit from energy production. In his view, everyone values electricity and siting a wind development is far preferable to siting coal or nuclear generation. Mr. Duits had spoken to a person near Pipestone who lives close to a wind turbine and, although that person did not benefit from the wind turbine, the turbine had not caused him any problems.[47]

40. Glenn Olson hoped to have a minimum of six turbines on his property, which would provide him with an opportunity to generate income for his children's education.[48]

41. There were other general expressions of support.[49]

Response from the Applicant

42. John R. Gasele, attorney for Prairie Wind Energy, LLC, filed a response signed by Amanda L. Sanvik to many of the public comments and questions, and, in particular, addressed many of the questions raised by Claudia Liljegren. Among the topics he addressed were taxes, liability, property destruction and maintenance, easements, cost and demand for renewable energy, tower location, the power purchase agreements, contracts with landowners, eminent domain, shadow flicker, noise, other health concerns, including "wind turbine syndrome," wildlife and environmental concerns, employment, property values, community relations, temporary meteorological towers to collect wind data and permanent meteorological towers, communication systems, and aviation, including aerial spraying.[50]

43. The response included the Spring Avian Flight Characteristic Survey and Raptor News Survey for the Prairie Wind Energy Project.[51]

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[46] Email dated Oct. 14, 2011, Edocket Doc. No. 201110-67422.
[47] T. 84-85.
[48] T. 96-97.
[49] *See also* T. 93-95 (Heather Krosch); Email dated Oct. 10, 2011, Edocket Doc. No. 201111-68061 (Travis Kramer); Email dated Oct. 19, 2011, Edocket Doc. No. 201110-67547 (Tim Hollatz).
[50] Email dated Oct. 20, 2011, Edocket Doc. Nos. 201110-67640 and 201110-67642.
[51] Email dated Oct. 20, 2011, Edocket Doc. Nos. 201110-67640 and 201110-67642.

44. Ms. Sanvik also represented that many of the permit conditions suggested by members of the public were acceptable to the Applicant.[52]

Submissions by Shelley Nygard.

45. Ms. Nygard submitted a wide variety of documents that she wished to have added to the record. All of the documents were efiled as public comments by OAH on October 12 and 13, 2011.[53] Some of them are public documents created in other PUC dockets; a majority appear to be articles that Ms. Nygard found on the internet, but she has not offered any explanation of the relevance of each one to a position that she has taken in this proceeding, nor is it clear where the document was first published, the credentials of the author, or whether the article appeared in a peer-reviewed journal. Generally, the articles are critical of wind power.

Dated: November _9th_, 2011

/s/ Manuel J. Cervantes
MANUEL J. CERVANTES
Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. § 216B.243, subd. 4, the PUC is required to conduct a public hearing to obtain public opinion on the necessity of granting a Certificate of Need and Site Permit.

This report contains a summary of the public testimony. It is not a final decision. The Commission will make the final decision whether to issue the Certificate of Need and a Site Permit following a review of this Summary of Public Testimony, as well as hearing transcripts, written comments submitted by the public, filings and arguments submitted by PWE, and other persons and entities interested in this matter.

[52] Email dated Oct. 20, 2011, Edocket Doc. Nos. 201110-67640 and 201110-67642.
[53] https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=eDocketsResult&userType=public#{39C37F73-F034-4D5D-81B0-11201AAA01C3}