

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger  
Nancy Lange  
Dan Lipschultz  
Matthew Schuerger  
John Tuma

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

Christina K. Brusven  
Fredrikson & Byron, P.A.  
200 South Sixth Street, Suite 4000  
Minneapolis, MN 55402

SERVICE DATE: May 25, 2016

DOCKET NO. IP-6964/CN-16-289

In the Matter of the Application of Nobles 2 Power Partners, LLC for a Certificate of Need for the up to 300 MW Nobles 2 Wind Project and Associated Facilities in Nobles and Murray Counties

The above entitled matter has been considered by the Commission and the following disposition made:

**Granted the exemption request as outlined in Nobles 2 Wind's Petition with the conditions proposed by the Division of Energy Resources of the Minnesota Department of Commerce (the Department).**

**Varied Minn. R. 7849.0200, subp. 6, to allow the Commission more than 30 days to respond to an exemption request, and Minn. R. 7849.0200, subp. 5, to allow the Commission more than 30 days to determine application completeness. The Commission made the following findings in accordance with Minn. R. 7829.3200:**

- a. Enforcing the 30-day periods would impose an excessive burden upon the Commission, the Department, and other interested parties by providing insufficient time for comments, Commission review, and order drafting.**
- b. Varying the 30-day periods would not adversely affect the public interest and would in fact serve the public interest. Later delays may be avoided by allowing sufficient time for (1) clarifying what information should be submitted in the application and (2) determining the application's completeness.**
- c. Varying the 30-day periods would not conflict with any other standards imposed by law.**

The Commission agrees with and adopts the recommendations of the Department, as modified, which are attached and hereby incorporated into the order. This order shall become effective immediately.

BY ORDER OF THE COMMISSION



Daniel P. Wolf  
Executive Secretary

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April 15, 2016

Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**  
Docket No. IP 6964/CN-16-289

Dear Mr. Wolf:

Attached are the comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matter:

Application of Nobles 2 Power Partners, LLC for a Certificate of Need for the up to 300 MW Nobles 2 Wind Project in Nobles and Murray Counties, Minnesota.

The petition was filed on April 5, 2016 by:

Christina K. Brusven  
Fredrikson & Byron, P.A.  
200 South Sixth Street, Suite 4000  
Minneapolis, MN 55402

The Department recommends that the Commission approve the data exemption requests. The Department is available to answer any questions that the Minnesota Public Utilities Commission may have in this matter.

Sincerely,

/s/ STEVE RAKOW  
Rates Analyst

SR/lt  
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE  
MINNESOTA DEPARTMENT OF COMMERCE  
DIVISION OF ENERGY RESOURCES

DOCKET No. IP 6964/CN-16-289

**I. SUMMARY OF FILING**

On April 5, 2016, Nobles 2 Power Partners, LLC (Nobles or the Company) filed the Company's *Application of Nobles 2 Power Partners, LLC for a Certificate of Need for the up to 300 MW Nobles 2 Wind Project in Nobles and Murray Counties, Minnesota* (Petition). Below are the Comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) regarding the Petition.

**A. PROJECT BACKGROUND**

Nobles is an independent power producer (IPP) proposing to construct and operate the Nobles 2 Wind Farm, an up to 300 megawatt (MW) large wind energy conversion system in Nobles and Murray Counties, Minnesota (Project). According to the Petition, the Project's footprint spans approximately 69,476 acres in Bloom, Elk, Larkin, Leota, Lismore, Seward, Summit Lake, and Wilmont Townships in Nobles County and Fenton Township in Murray County. Such a facility would qualify as a large energy facility as defined by Minn. Stat. § 216B.2421, subd. 2(1).

**B. EXEMPTION REQUESTS**

In the petition Nobles requests exemption from providing data relevant to the Minnesota Rules listed below:

1. 7849.0240, subp. 2 (B): Promotional Activities;
2. 7849.0250, subp. B (1) – (5): Description of Certain Alternatives;
3. 7849.0250 (C) (1) – (9): Details Regarding Alternatives;
4. 7849.0250 (C) (7): Effect of Project on Rates System-wide;
5. 7849.0250 (D): Map of Applicant's System;
6. 7849.0270: Peak Demand and Annual Consumption Forecast;
7. 7849.0280: System Capacity;
8. 7849.0290: Conservation Programs;

9. 7849.0300: Consequences of Delay;
10. 7849.0330: Transmission Facilities; and
11. 7849.0340: No-Facility Alternative.

The Minnesota Public Utilities Commission (Commission) has previously granted exemption requests for the items numbered above for similar IPP wind projects.<sup>1</sup>

## II. DEPARTMENT ANALYSIS

Minnesota Statute § 216B.243, subd. 2 states that no large energy facility (LEF) shall be constructed without a certificate of need (CN). The Project qualifies as an LEF. Noble's Petition requests exemption from several of the filing requirements related to a future CN application for the proposed Project.

Minnesota Rules, part 7849.0200, subp. 6 states that an exemption is appropriate if the data requirement is not necessary in order to determine the need, or can be obtained via another document:

Before submitting an application, a person is exempted from any data requirement of parts 7849.0010 to 7849.0400 if the person (1) requests an exemption from specified rules, in writing to the Commission, and (2) shows that the data requirement is unnecessary to determine the need for the proposed facility or may be satisfied by submitting another document. A request for exemption must be filed at least 45 days before submitting an application.

The Department examines each specific exemption request separately. The criterion to be considered is whether Nobles has shown that "the data requirement is unnecessary to determine the need for the proposed facility or may be satisfied by submitting another document."

### A. EXEMPTION ANALYSIS

#### 1. 7849.0240, subp. 2(B): Promotional Activities

This rule requires an applicant to provide an explanation of the relationship of the proposed facility to promotional activities that may have given rise to the demand for the facility. The Company states that they have not engaged in any promotional activities, so there is no information to provide pursuant to this rule. The Department notes that the Commission has granted this exemption to other IPPs because these companies do not have captive

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<sup>1</sup> For examples, see Docket Nos. IP6339/CN-03-1841 (Trimont Area Wind), IP6631/CN-07-789 (Elm Creek Wind), IP6670/CN-08-334 (Wapsipinicon Wind), IP6688/CN-08-961 (EcoHarmony West Wind), IP6830/CN-09-1110 (Paynesville Wind), IP6844/CN-10-429 (Prairie Wind), IP6728/CN-09-471 (Heartland Wind), and IP6646/CN-13-193 (Stoneray Wind).

retail customers. Since the circumstances are the same in this case, the Department recommends that the Commission grant the exemption.

2. *7849.0250, subp. B(1) – (5): Description of Certain Alternatives*

Minnesota Rules, part 7849.0250 (B) requires an applicant to provide a discussion of the availability of alternatives to the facility, including but not limited to:

- 1) purchased power;
- 2) increased efficiency of existing facilities, including transmission lines;
- 3) new transmission lines;
- 4) new generating facilities of a different size or using a different energy source; and
- 5) any reasonable combinations of the alternatives listed in sub items (1) to (4).

Nobles requests an exemption from data requirements (1), (2), (3), and (5) as well as a partial exemption to data requirement (4).

Regarding purchased power, Nobles states that, as an IPP, it does not purchase power. Rather, the Company will sell power. Regarding operating efficiency, the Company states that it does not own any facilities in Minnesota for which it can pursue increased efficiency as an alternative to the proposed Project. Regarding new transmission lines, Nobles indicates that it does not plan to build new transmission lines; any transmission and distribution lines necessary to deliver the power will be left to utilities with defined service area obligations to retail customers. As (1) through (3) are not applicable to Nobles, the Company requests an exemption from combinations of the alternatives listed in the subitems (5).

Nobles requests a partial exemption from requirement (4). Nobles states that since the goal of the project is to provide renewable energy that will help utilities satisfy renewable or clean energy standards, information regarding non-renewable alternatives would not be relevant.

The Department agrees that the Company's requested exemptions are consistent with the requests of other IPPs and that the required information is not relevant to analysis of Nobles' proposed need. Therefore, the Department recommends that the Commission grant the requested exemptions.

3. *7849.0250(C) (1) – (9): Availability of Alternatives to the Facility*

This rule requires the applicant to provide the following information for the proposed facility and each of the alternatives provided in response to Minnesota Rules 7849.0250 (C):

- 1) capacity costs in current dollars per kilowatt;
- 2) service life;
- 3) estimated average annual availability;
- 4) fuel costs in current dollars per kilowatt hour;

- 5) variable operating and maintenance costs in current dollars per kilowatt hour;
- 6) total cost in current dollars of a kilowatt hour provided by it;
- 7) estimate of its effect on rates system wide and in Minnesota;
- 8) efficiency, expressed as the estimated heat rate; and
- 9) major assumptions made in providing the above information (e.g., escalation rates used, projected capacity factors).

Nonrenewable alternatives could not fulfill the proposed purpose of increasing the supply of renewable generation. Therefore, Nobles proposes to provide a discussion of only the renewable alternatives discussed in response to Minnesota Rules, part 7849.0250 (B). The Department agrees that the required information is not relevant to analysis of alternatives to Nobles' proposed Project. Therefore, the Department recommends that the Commission grant the exemption.

4. *7849.0250 (C) (7): Effect of Project on Rates System-wide*

Since Nobles does not have a system and is not a utility with regulated rates, the Company requests an exemption from this requirement. Instead, the Company proposes to submit data on the Project's impact on state or regional wholesale electricity prices. The Department recommends that the Commission grant the exemption and require the proposed alternative data.

5. *7849.0250 (D): Map of Applicant's System*

This rule requires provision of a map of appropriate scale showing the applicant's system. As an IPP, Nobles does not have a system. Thus, such information is not reasonably available. Instead, Nobles proposes to submit a map showing the proposed Project's site and its location relative to the power grid. The Department recommends that the Commission grant the requested exemption and require the proposed alternative data.

6. *7849.0270: Peak Demand and Annual Consumption Forecast*

This rule requires the applicant to provide information regarding its system peak demand and annual energy consumption within the applicant's service area and system. Since the Company does not have a system, it intends to submit information with respect to regional demand, consumption, and capacity from credible sources to show the need for the renewable energy that will be generated. The Department recommends that, should Nobles enter into a power purchase agreement or similar arrangement with a Minnesota utility prior to submitting its CN application, the Company provide relevant information regarding the purchasing utility's system and future resource needs and/or seek an exemption from the CN requirements under Minn. Stat. § 216B.243, subd. 9. The Department notes that the Commission has previously allowed IPPs to provide regional data from credible sources in lieu of the data requirements of Minnesota Rules, part 7829.0270. The Department recommends that, conditioned upon Nobles' commitment to providing the alternative information noted above, the Commission grant the requested exemption.

7. *7849.0280: System Capacity*

This rule requires the applicant to describe the ability of the existing system to meet the forecasted demand for energy provided in response to Minnesota Rules, part 7849.0270. Since Nobles does not have a system, it is requesting an exemption from this rule. Nobles proposes to submit information with respect to regional demand, consumption, and capacity for independently produced renewable energy. The Department recommends that, should Nobles enter into a power purchase agreement or similar arrangement with a Minnesota utility prior to submitting its CN application, the Company commit to provide relevant information regarding the purchasing utility's system and future needs for resource generally, renewable resources in particular, and/or seek an exemption from the CN requirements under Minn. Stat. § 216B.243, subd. 9. The Department recommends that, conditioned upon Nobles' commitment to providing the alternative information noted above, the Commission grant the requested exemption.

8. *7849.0290: Conservation Programs*

This rule requires the applicant to provide information regarding its energy conservation and energy efficiency programs, including load management. Since Nobles has no retail customers and plans to sell the proposed Project's output to as yet undetermined buyers, the Company requests an exemption in its entirety from this requirement. The Department recommends that, should Nobles enter into a power purchase agreement or similar arrangement with a Minnesota utility prior to submitting its CN application, the Company commit to provide relevant information regarding the purchasing utility's conservation efforts. The Department recommends that, conditioned upon Nobles' commitment to providing the alternative information noted above, the Commission grant the requested exemption.

9. *7849.0300: Consequences of Delay*

This rule requires the applicant to provide information regarding the consequences on its system, neighboring systems, and the power pool should the proposed facility be delayed.

The Company states that since it does not have a system, this data requirement is inapplicable and unnecessary to determine the need for the proposed project. Instead, Nobles proposes to submit data on the consequences of delay on the potential customers and the region. The Department agrees and recommends that the Commission grant this exemption.

10. *7849.0330: Transmission Facilities*

This rule requires the applicant to provide information regarding each alternative that would involve construction of a Large High Voltage Transmission Line (LHVTL). The Company states that transmission facilities are not true alternatives to the proposed facility since the purpose is to increase the supply of renewable energy. Further, Nobles does not currently plan on installing any facilities that would be defined as an LHVTL.

The Department notes that the Commission has granted this exemption in the past.<sup>2</sup> As in similar dockets, the Department concludes that transmission is not a viable alternative to the proposed project and that the data requirements regarding LHVTLs, as alternatives, are unnecessary to determine the need for the proposed facility. Therefore, the Department recommends that the Commission grant this exemption.

*11. 7849.0340: No Facility Alternative*

This rule requires the applicant to provide information on the alternative of no facility for each of the three levels of demand specified in Minnesota Rules, part 7849.0300. Instead, the Company proposes to provide reasonably available information regarding the impact on the wholesale market if the proposed Project is not built. The Department agrees that this is a reasonable way to address this information requirement and recommends that the Commission grant this exemption.

**III. DEPARTMENT RECOMMENDATION**

The Department recommends that the Commission grant Nobles' exemption requests conditioned upon Nobles' commitment to providing the information relevant to Minnesota Rules, part 7849.0270 to 7849.0290, and/or request an exemption from the CN requirements pursuant to Minn. Stat. § 216B.243, subd. 9, should Nobles enter into a PPA or similar arrangement with a Minnesota utility prior to submitting its CN application.

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<sup>2</sup> For example, see Docket Nos. IP6646/CN-13-193, IP6902/Cn-13-163, and IP6853,6866/CN-11-471.