

September 19, 2014

Dr. Burl Haar
Minnesota Public Utilities Commission
121 Seventh Place East
Suite 350
St. Paul MN 55101-2147

Re: In the Matter of Black Oak Wind, LLC's Site Permit Application for a 42 Megawatt Large Wind Energy Conversion System in Stearns County, Minnesota

In the Matter of Getty Wind, LLC's Site Permit Application for a 40 Megawatt Large Wind Energy Conversion System in Stearns County, Minnesota

MPUC Docket Nos. IP6853/WS-10-1240; and IP6866/WS-11-831

Dear Dr. Haar:

Enclosed please find the Petition for Modification or Amendment to the Black Oak Wind, LLC and Getty Wind Company, LLC Site Permits that was e-filed today in the above referenced matters.

Please let me know if you have any questions or concerns regarding this filing.

Sincerely,

/s/ Christina K. Brusven

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**STATE OF MINNESOTA
BEFORE THE
PUBLIC UTILITIES COMMISSION**

Beverly J. Heydinger
David C. Boyd
Nancy Lange
Dan Lipschultz
Betsy L. Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Black Oak Wind, LLC for a Site Permit for a 42 Megawatt Large Wind Energy Conversion System in Stearns County, Minnesota

Docket No. IP6853/WS-10-1240

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Docket No. IP6866/WS-11-831

PETITION FOR MODIFICATION OR AMENDMENT TO SITE PERMITS

I. INTRODUCTION

On January 28, 2013, the Minnesota Public Utilities Commission (the “Commission”) issued two site permits to Black Oak Wind, LLC (“Black Oak”) and Getty Wind Company, LLC (“Getty”) to construct, own, operate, maintain, and manage 42 and 40 megawatt (“MW”) nameplate capacity Large Wind Energy Conversion Systems (“LWECS”) and associated facilities in Stearns County (respectively, the “Black Oak Project” and the “Getty Project”).

Since the site permits were issued, Black Oak and Getty have continued to advance the Projects towards construction, including by arranging off-take for the Projects by way of a power purchase agreement. As part of these advancements, Black Oak and Getty have selected Vestas V110, 2.0 MW wind turbine generators. This turbine size and model is within the range of turbine sizes permitted under the site permits; however, the Vestas V110 was not specifically listed in either permit. Accordingly, Black Oak and Getty hereby request that the Commission amend their respective site permits to specify the alternative wind turbine model and associated changes to the Projects, as described further herein.

II. PROCEDURAL BACKGROUND

On December 6, 2010, Black Oak filed a site permit application with the Commission for the 42 MW Black Oak Wind Farm. On January 14, 2011, the Commission accepted the site permit application as complete, provided that Black Oak provide additional information on the project.

On March 11, 2011, the Commission issued a draft site permit for the Black Oak Project. Following notice, a public meeting was held on the draft site permit on April 7, 2011.

On October 11, 2011, Black Oak and Getty jointly submitted an application for a certificate of need for the Black Oak and Getty Projects. On the same day, Getty submitted a site permit application for the Getty Project. On November 14, 2011, the Commission accepted the Getty site permit application as complete.

On December 15, 2011, the Commission issued an order authorizing an informal review process for its consideration of need for the Black Oak and Getty Projects.

On February 23, 2012, the Commission issued a draft site permit for the Getty Project. Following the notice, a public meeting was held on the draft site permit on March 20, 2012.

On June 26, 2012, a public hearing was held on the Black Oak and Getty Projects; the hearing was noticed to include the opportunity for public comments on need and site issues for both Projects. On August 8, 2012, Administrative Law Judge Bruce Johnson issued a *Summary of Public Testimony*.

On October 18, 2012, the DOC EFP filed Comments and Recommendations, proposed Findings of Fact, Conclusions of Law and proposed Site Permit for both the Black Oak and Getty Projects. On October 24, 2012, the Commission issued a Notice of Comment Period on the Department's October 18, 2012 Comments and Recommendations. Comments were received from Black Oak and Getty, the Department of Natural Resources, EERA staff, and members of the public.

On January 28, 2013, the Commission issued Findings of Fact, Conclusions of Law and Order Issuing a Site Permit to Getty Wind Company, LLC for the Getty Wind Project. On the same day, the Commission issued Findings of Fact, Conclusions of Law and Order Issuing a Site Permit to Black Oak Wind, LLC for the Black Oak Wind Farm.

On August 15, 2014, Black Oak and Getty began submitting their pre-construction compliance filings. Black Oak and Getty have submitted substantially all of the required pre-construction compliance filings and expect to complete the remaining filings and requested revisions shortly.

In order to meet the Projects' construction schedule and expected turbine deliveries, Black Oak and Getty must commence construction as soon as possible. Black Oak and Getty are prepared to commence construction upon the Commission's approval of the amendments detailed below.

III. MODIFICATION OR AMENDMENT REQUEST

Black Oak and Getty have selected the Vestas V1100 2.0 MW wind turbine generator on 262 foot (80 meters) towers with a rotor diameter of 361 feet (110 meters). The turbine specifications are shown in Table 1 below:

Vestas V110 Wind Turbine Characteristics

Nameplate Capacity	2000 kw
Hub Height	80 m (262 ft)
Rotor Diameter	110 m (361 ft)
Total Height	135 m (443 ft)
Cut-in Wind Speed	3 m/s (6.7 mph)
Cut-out Wind Speed	20 m/s (44.7 mph)
Maximum sustained wind speed	37.5 m/s (83.9 mph)
Wind swept area	9,503.3 m ² (102,290.4 ft ²)
Rotor speed	9.6 to 17.0 rpm

This change in the wind turbine generator identified in the site permits modifies the Project descriptions and the turbine layouts of the wind turbine towers. Accordingly, Black Oak and Getty respectfully request that the Commission amend Sections 1 of the site permits.

Amending these provisions as described below will enable Black Oak and Getty to utilize the selected turbine, but will not otherwise change the terms and conditions of the site permits, including provisions establishing setback, survey, and/or reporting requirements.

A. Proposed Black Oak Amendment.

The proposed amendment to Section 1 of the Black Oak site permit specifies the selected wind turbine generator in the project description, as follows:

The up to 42 MW nameplate capacity LWECS authorized to be constructed in this Permit (Black Oak Wind Farm) will be developed and constructed by the Permittee. The Project will consist of up to ~~28 1.5 Megawatt (MW) wind turbine generators, up to 22 1.8 MW wind turbine generators, or up to 13 3.0 MW~~ 21 Vestas V110 2.0 MW wind turbine generators mounted on towers with a height of ~~262 to 328 feet (80 to 100 meters)~~ 262 feet (80 meters) towers having a combined nominal nameplate capacity of up to 42 MW. The rotor diameter is ~~285 to 367 feet (87 to 112 meters)~~ 361 feet (110 meters). Associated facilities will include . . .

B. Proposed Getty Amendment.

The proposed amendment to Section 1 of the Getty site permit specifies the selected wind turbine generator in the project description, as follows:

The up to 40 MW nameplate capacity LWECS authorized to be constructed in this Permit will be developed and constructed by the

Permittee. The Project will consist of up to ~~23 Goldwind 87-1500 1.5 MW wind turbine generators (turbines), up to 21 Report MM100 1.8 MW turbines, or up to 13 Vestas V112 3.0 MW turbines~~ 20 Vestas V110 2.0 MW turbines. The Permittee may modify the turbine selection with the Minnesota Public Utilities Commission's (Commission) approval. The rotor diameter is ~~285 to 367 feet (87 to 112 meters)~~ 361 feet (110 meters). Associated facilities will include

IV. ANALYSIS

A. The Commission has Authority to Amend a Site Permit for Good Cause.

The Commission may amend a site permit at any time “if the commission has good cause to do so.” Minn. R. 7854.1300, subp. 2; *see also* Minn. Stat. § 216F.04(d) (allowing the commission to modify a site permit). The Commission incorporated this authority into the site permits, which provide that the site permits may be “modified or amended for cause.” Site Permits ¶ 11.2. Further, the Commission has found good cause exists and amended site permits for wind projects to permit use of an alternative model of wind turbine generator in prior similar circumstances.¹

B. Good Cause Exists to Amend the Site Permit.

Good cause exists to amend the site permits to allow Black Oak and Getty to use the selected wind turbine generator. Similar to other modifications to site permits previously granted, one of which is referenced above, fluctuations in wind turbine availability and project off-take negotiations caused Black Oak and Getty to revise their turbine selection for the Projects.

As is true of many projects proposed to the Commission, the Black Oak and Getty Projects proposals included multiple options for the wind turbine generator to afford Black Oak and Getty the flexibility to adjust to market conditions as project development progressed. In this case, the flexibility built into the project descriptions were insufficient to account for the changes in turbine technology, turbine availability, and other market forces that took place during the course of the development process. Black Oak and Getty now have greater certainty with respect to its power purchase agreement and in-service date for the Projects. As such, Black Oak and Getty have also identified the Vestas V110 2.0 MW turbines as the optimal wind turbine generator for performance and cost.

¹ *E.g., In the Matter of the Application of Pleasant Valley Wind LLC for a Site Permit for the 300 MW Pleasant Valley Project in Dodge and Mower Counties, Order Amending Site Permit, MPUC Docket No. IP-6828/WS-09-1197 (Feb. 10, 2014) (approving amendments to site permit including changing the turbine type and layout for the project because of changes in turbine technology, turbine availability, and other market forces).*

Although the proposed amendment results in a change in the wind turbine generator and turbine layout, the proposed amendment will not substantively change the Commission's findings in its original approval of the site permits or whether the Projects are compatible with environmental preservation, sustainable development, and the efficient use of resources.²

First, the revised turbine layout is located entirely within the Project boundaries previously studied for potential human and environmental impacts as part of the LWECS permitting process. The revised turbine layout will comply with all setback requirements and site layout restrictions identified in the Site Permits – setbacks and layout restrictions that are comparable to those contained in the Black Oak and Getty site permits.

Second, Black Oak and Getty filed constraint maps and sound and shadow flicker modeling reports for the proposed Vestas turbines through its pre-construction filings.³ The decision by Black Oak and Getty to use the Vestas V110 turbine, and only 39 of them, continues to comply with all site permit conditions. Because the revised turbine layout will comply with all site permit setbacks and layout restrictions, the proposed site permit amendments will not result in any impacts not already considered by the Commission.

Finally, Black Oak and Getty have completed substantially all pre-construction survey, reporting, and administrative compliance obligations set forth in the site permits using the Vestas V110 as a model. Thus, it will not be necessary for Black Oak and Getty to submit revised pre-construction compliance filings beyond changes requested by EERA Staff as part of its review.

As noted above, the Commission has previously found that good cause exists for modifications to the proposed wind turbine generator and associated project details based on similar justifications relating to market conditions. The Commission should similarly find that good cause exists for amendment in this case.

C. Request for Expedited Review.

Pursuant to Minn. R. 7829.3100, “the commission may vary the time periods established by this chapter on its own motion or at the request of a person for good cause shown.” Here, Black Oak and Getty have substantially completed their pre-construction compliance filings, there is a negotiated power purchase agreement, and construction is ready to begin. In addition, the wind turbines which are the subject of this amendment are within the range of turbines identified in the site permits. Accordingly, Black Oak and Getty respectfully request that the

² Minn. Stat. § 216F.03; Minn. R. 7854.0500.

³ See Docket No. IP6853/WS-10-1240, Compliance Filing – Section 6.2 – Shadow Flicker Analysis, Doc. ID 20148-102552-01 (Aug. 26, 2014); Docket No. IP6866/WS-11-831, Compliance Filing – Section 6.2 – Shadow Flicker Analysis, Doc. ID 20148-102552-02 (Aug. 26, 2014); Docket No. IP6853/WS-10-1240, Compliance Filing – Revised Section 5.1 – Site Plan, Doc. ID 20149-103137 (6 parts) (Sept. 17, 2014); IP6866/WS-11-831, Compliance Filing – Revised Section 5.1 – Site Plan, Doc. ID 20149-103137 (6 parts) (Sept. 17, 2014).

Commission vary established time periods and review this Petition on an expedited basis so that Black Oak and Getty may begin construction.

V. CONCLUSION

Because good cause exists, and for the reasons set forth herein, Black Oak and Getty respectfully request that the Commission grant the proposed amendments to the site permits for the projects to permit the use of the selected wind turbine generator.

Dated: September 19, 2014

Respectfully submitted,

/s/ Christina K. Brusven

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AFFIDAVIT OF SERVICE

**In the Matter of Black Oak Wind, LLC's Site Permit Application
for a 40 Megawatt Large Wind Energy Conversion System in
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MPUC Dkt Nos. IP6853/WS-10-1240; and IP6866/WS-11-831

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)


Kristen A. Swenson, of the City of Minneapolis, County of Hennepin, in the State of Minnesota, being duly sworn, says that on the 19th day of September 2014, she efiled with the Minnesota Public Utilities Commission the following:

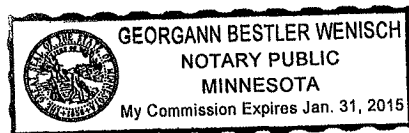
- 1. Petition for Modification or Amendment to Site Permits; and**
- 2. An Affidavit of Service.**

A copy has also been served on the service list of record.


Kristen A. Swenson

Subscribed and sworn to before me
on September 19, 2014.


Notary Public



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Patrick	Smith	patrick@geronimowind.com	Geronimo Wind Energy, LLC	7650 Edinborough Way, Ste 725 Edina, MN 55435	Electronic Service	No	OFF_SL_11-831_Official
Keith	Thorstad	N/A	West Stevens Wind, LLC	PO Box 321 Chokia, MN 56221	Paper Service	No	OFF_SL_11-831_Official

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