

The Commission met on **Monday, November 21, 2016**, with Chair Heydinger and Commissioners Lange, Lipschultz, Schuerger and Tuma present.

The following matters were taken up by the Commission:

ENERGY AGENDA

E-015/TL-14-21

In the Matter of the Application of Minnesota Power for a Route Permit for the 500 kV Great Northern Transmission Line Project in Roseau, Lake of the Woods, Beltrami, Koochiching, and Itasca Counties

Commissioner Tuma moved to take the following actions:

1. Authorize the Minor Alteration with additional conditions identified in the Route Permit and in the DNR's North Black Reroute Habitat Assessment for *Cardamine pratensis*; and
2. Request that EERA consider the location of the structure referenced in the public comment and provide recommendations as to its significance as part of its plan and profile review for the Minor Alteration.

The motion passed 5-0.

IP-6646/WS-16-618

In the Matter of the Application of Red Pine Wind, LLC for a Site Permit for the 200.1 Megawatt Red Pine Wind Project in Lincoln County

Commissioner Lipschultz moved to take the following actions:

1. Accept Red Pine Wind Farm, LLC's application as substantially complete, provided Applicant submits its updated information no later than November 23, 2016;

Procedural Treatment

2. Request that an administrative law judge from the Office of Administrative Hearings (OAH) preside over the hearing and prepare a summary of public comments;
3. Request that an administrative law judge from the OAH preside over the hearing and:
 - A. Conduct the public hearing under Minn. R. 7850.3800, subp. 2-4 and, as the Administrative Law Judge determines appropriate, Minn. R. 1405.0500; Minn. R. 1405.0600; Minn. R. 1405.0800; Minn. R. 1405.1900; and Minn. R. 1405.2200;
 - B. Direct that intervention as a party is not required. The parties to the proceeding are the Department and the Applicant. Other persons may participate as public participants or as otherwise directed;

- C. Request that state agencies participate in accordance with Minn. Stat. 216E.10, subd. 3;
- D. Establish the types of filings necessary to facilitate proper record development (*i.e.*, testimony, briefs, reply briefs, proposed findings, and site permit recommendations) and a schedule for submitting those filings through a prehearing conference under Minn. R. 1405.1100, as determined appropriate;
- E. Emphasize the statutory time frame for the Commission to make final decisions on the application and encourage the Applicant and others to adhere to a schedule that conforms to the statutory timeframe;
- F. Request the Administrative Law Judge and others to address whether the proposed LWECS project meets the criteria established under Minn. Stat. Ch. 216F and Minn. R. Ch. 7854;
- G. Prepare a report setting forth findings of fact, conclusions of law, and recommendations on the merits of the LWECS site permit application, and provide recommendations, if any, on conditions and provisions for the proposed site permit; and
- H. Direct that the hearing record be maintained through the Commission's electronic e-Dockets filing system.

Administrative Responsibilities

- 4. Delegates administrative authority, including timing issues, to the Executive Secretary;
- 5. Provide the name, telephone number and email address of the Commission's public advisor
- 6. Requests that the Department continue to study the issues and indicate during the hearing process, through testimony or comment, its position on the reasonableness of granting a site permit;
- 7. Requires the Applicant to facilitate in every reasonable way the continued examination of the issues requested by the Department and Commission staff;
- 8. Requires the Applicant to place a print and electronic copy of the site permit application in the Lincoln County Environment Office at the county government center and the Ivanhoe public library;
- 9. Directs the Applicant to work with Commission staff and the Administrative Law Judge to arrange for publication of the notice of hearing in newspapers of general circulation at least ten days prior to the hearing, that such notice be in the form of visible display ads, and that proof of publication be obtained from the newspapers selected; and

10. Directs that all notice requirements in these matters provided for under Minn. Stat. Ch. 216F and Minn. R. Ch. 7854 include delivery to all affected landowners. An affected landowner is any landowner or designee that is within or adjacent to the proposed LWECS site boundary.

Rule Variances

11. Vary Minn. R. 7854.0600, subp. 1, to extend the 30-day time period for Commission decision on application completeness.
12. Vary Minn. R. 7854.0600, subp. 3, to allow Applicant to provide each requisite recipient with hard copies of the main application and maps. Any time the Applicant provides the requested application and maps they must notify the recipient of the locations of the full application and offer to provide the appendices via electronic means such as a CD or thumb drive unless requested otherwise by the recipient.
13. Vary Minn. R. 7854.0800, subp. 1 to extend the 45-day time period for Commission decision on the issuance of a draft site permit.
14. Vary Minn. R. 7854.1000, subp. 2 to extend the 180-day time period for Commission decision on the issuance of a draft site permit. The Commission encourages the Department and the Administrative Law Judge to make every effort to provide for issuance of the site permit within 180 days, consistent with meeting all notice and public participation requirements applicable.

The motion passed 5-0.

G-011/AI-16-284

In the Matter of the Petition for Approval of the Affiliated Interest Agreement with WEC Energy Group and Minnesota Energy Resources

Commissioner Schuerger moved to take the following actions:

1. Approve MERC's propose WEC Energy AIA with the following modifications:
 - A. Put MERC on notice that it should be prepared to demonstrate in the company's next rate case that its proposed allocation methods provide similar results compared to the Commission's preferred general allocation method, or that the company's method better serves the public interest;
 - B. Allow MERC's proposed increased limit from \$100,000 to \$250,000 to apply only to services and not to any plant as an operating unit or system in Minnesota;
 - C. Require MERC's internal audit to apply to both Regulated and Non-Regulated entities to assess whether MERC is overpaying or undercharging either Regulated or Non-Regulated affiliates in transactions when market alternatives are available;

- D. Require that if any Regulated or Non-Regulated affiliate is responsible for the treatment of MERC customer data, MERC must inform that affiliate, in writing, that the information about MERC's customers must be treated according to the requirements of the Minnesota Public Utilities Commission, then in effect.
- E. Require the Company to include in its May 1 annual compliance report a listing of the affiliates receiving MERC customer data, a general description of the data shared, the notice provided to the affiliate, and a discussion of unauthorized release of data, if any occurred.
- F. Require the Company to file in its next general rate case, Direct Testimony demonstrating continued compliance with the Commission's 1008 Docket requirements and support that the Company's cost assignments and cost allocations continue to be reasonable;
- G. Require the Company to supplement the annual reporting required by Article V of the AIA, highlighting all transactions that are over the \$100,000; and Terminate WEC AIA and the Master AIA approved in Docket Nos. G011/AI-15-704 and G007,011/AI-07-779 (most recently amended in Docket No. G011/AI-13-934) respectively.

The motion passed 5-0.

E-002/M-13-867

In the Matter of the Petition of Northern States Power Company, dba Xcel Energy, for Approval of Its Proposed Community Solar Garden Program

Commissioner Lange moved to deny Xcel's petition for reconsideration.

The motion passed 5-0

E-123/CG-16-241

In the Matter of a Complaint of Larry Fagen against Minnesota Valley Cooperative Light and Power Association.

Commissioner Lipschultz moved that the Commission:

1. Find that Minnesota Valley violated Mr. Fagen's right to choose a compensation method.
2. Deem the signed contract between Mr. Fagen and Minnesota Valley void and cancelled. Require the Cooperative to present a new contract to Mr. Fagen that includes an option to select compensation under Minn. Stat. § 216B.164, subd. 3 (d).

3. Find that there is no need to reach the issue of whether an expansion is a new installation.
4. Find that the record does not support a finding that Minnesota Valley's minimum bill is discriminatory as applied to Mr. Fagen.
5. Find that Mr. Fagen is the prevailing party. Require Minnesota Valley to pay Mr. Fagen costs, disbursements, and reasonable attorneys' fees as required under Minn. Stat. § 216B.164, subd. 5 for all claims, within 30 days of Mr. Fagen submitting a claim to the Cooperative.
6. Direct Minnesota Valley not to cancel out any of Mr. Fagen's kilowatt-hour credits carried forward at the end of the calendar year. Within 30 days of the date of this order, the Cooperative must recalculate all of Mr. Fagen's 2016 bills as if he had been compensated under Minn. Stat. § 216B.164, subd. 3(d), or use an alternative calculation mutually agreed to.
7. Require Minnesota Valley to offer all existing and all future qualifying facility customers a contract that allows the customer to choose among the statutory compensation rates.
8. Require Minnesota Valley, within 30 days of the date of this order, to recalculate the bills of all other customers who were put on the kilowatt-hour carryforward method, who did not specifically elect that method, as if they had been compensated under Minn. Stat. §216B.164, subd. 3(d), and shall not cancel any kWh credits for such customers.
9. Within 60 days of the date of this order, Minnesota Valley must file a compliance filing demonstrating its compliance with the requirements of this order.

Chair Heydinger moved to amend paragraph 5 of the motion to read:

Find that Mr. Fagen is the prevailing party. Require Minnesota Valley to pay Mr. Fagen costs, disbursements, and reasonable attorneys' fees as required under Minn. Stat. § 216B.164, subd. 5. Mr. Fagen shall make a filing with the Commission and the service list detailing any costs, disbursements, and attorneys' fees for which he seeks reimbursement. Minnesota Valley shall reimburse him within 30 days. As part of its compliance filing, Minnesota valley shall include a detailed explanation of any amounts it disputes and why.

Commissioner Lipschultz did not object to the change, and the motion passed 5-0.

Commission Tuma moved that the Commission:

1. Find that additional information is needed to determine whether Minnesota Valley's application of the minimum monthly charge, under Minnesota Valley's tariff, to Mr. Fagen was impermissibly discriminatory or otherwise illegal pursuant to Minn. Stat. § 216B.164.
2. Delegate to the Executive Secretary the authority to establish procedures and timelines for obtaining additional information.

The motion passed 5-0.

There being no further business, the meeting was adjourned.

APPROVED BY THE COMMISSION: February 1, 2017

A handwritten signature in black ink that reads "Daniel P. Wolf". The signature is written in a cursive style with a large, stylized 'D' and 'W'.

Daniel P. Wolf, Executive Secretary