

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Ellen Anderson	Chair
Dr. David C. Boyd	Commissioner
J. Dennis O'Brien	Commissioner
Phyllis Reha	Commissioner
Betsy Wergin	Commissioner

In the Matter of the Application of Noble Flat Hill Windpark I, LLC for a Certificate of Need for a Large Energy Facility, a 201 MW Large Wind Energy Conversion System and Associated Facilities in Clay County

ISSUED DATE: May 20, 2011

Docket No. IP-6687/CN-08-951

Docket No. IP-6687/TL-08-988

In the Matter of the Application for a Route Permit for the Noble Flat Hill Windpark I 230 kV Transmission Line

Docket No. IP-6687/WS-08-1134

In the Matter of the Noble Application for a Large Wind Energy Conversion System (LWECS) Site Permit for the Noble Flat Hill Windpark I Project in Clay County

ORDER DISMISSING CONTESTED CASE PROCEEDINGS AND ADOPTING AND MODIFYING PROPOSED ORDER

PROCEDURAL HISTORY

The Noble Flat Hill Windpark I project ("Project") is a 201 Megawatt wind facility proposed to be located in Clay County approximately 12 miles northeast of Moorhead, Minnesota. The Project was proposed by Noble Flat Hill Windpark I, LLC ("Noble"), a wholly-owned subsidiary of Noble Environmental Power.

In February 2010, the Commission issued three orders granting Noble (1) a Certificate of Need ("CON"), (2) a large wind energy conversion system ("LWECS") site permit, and (3) a HVTL route permit (collectively, the "Project Permits") issued in Commission Docket Nos. IP-6687/CN-08-951, IP-6687/TL-08-988 and IP-6687/WS-08-1134 ("Commission Proceedings").

In March 2010, Radio Fargo-Moorhead, Inc. ("RFM"), a landowner within the Project site boundary, filed Petitions for Writ of Certiorari with the Minnesota Court of Appeals, appealing the Commission's grant of the LWECS site permit and HVTL route permit for the Project ("RFM Appeal"). RFM based its appeal on its claims that it was not properly notified of the Project and that RFM's six tower AM directional antenna system (radio tower) was not considered in the development of the records or in the final route and site permit decisions.

On April 20, 2010, the Minnesota Court of Appeals issued an order dismissing the RFM Appeal and remanding the matter to the Commission for further proceedings.

On May 26, 2010, RFM filed a Petition for Vacation or Rehearing of the Commission's orders granting the Project Permits to Noble alleging, among other things, that the construction of the Project would unreasonably interfere with the operation of RFM's Radio Station KVOX(AM) ("RFM Petition").

On August 25, 2010, the Commission issued an order (1) reopening the record in Docket No. IP-6687/TL-08-988 (HVTL routing permit) and Docket No. IP-6687/WS-08-1134 (LWECS site permit) for the limited purpose of supplementing the evidentiary record on issues regarding the potential for impacts of the Project on RFM's operations; and (2) referring the matter to the Office of Administrative Hearings ("OAH") to conduct a contested case proceeding ("Contested Case Proceeding") specifically addressing the potential for impacts on RFM's operations.

The Contested Case Proceeding was assigned to Administrative Law Judge Beverly Jones Heydinger ("ALJ") who held a prehearing conference on October 11, 2010. Counsel for Noble, RFM, and the Office of Energy Security, Energy Facility Permitting Staff ("Department") appeared at and participated in the prehearing conference. Commission and Department staff were also present. Noble and RFM advised the ALJ that they were engaged in settlement negotiations. The ALJ continued the matter for a subsequent prehearing conference. No schedule was set for an evidentiary hearing and no evidentiary hearing has been held to date.

Through their own meetings and negotiations, Noble and RFM have reached a settlement resolving all issues raised in the RFM Petition, including but not limited to RFM's stated concern that the construction of the Project would unreasonably interfere with the operation of RFM's Radio Station KVOX(AM).

RFM has withdrawn all challenges raised in the RFM Petition respecting the Project Permits in the Commission Proceedings and agrees that the Project Permits should be affirmed by the Commission. Based on the settlement between the parties, RFM does not object to the Project.

RFM has informed the Commission that RFM no longer seeks any of the relief sought in the RFM Petition, including but not limited to (1) further studies or testing to show that the Project can be compatible with RFM's operations; (2) supplementation of the evidentiary record on issue regarding the potential for impacts of the Project on RFM's operations; or (3) consideration of the impacts of the Project on RFM's operations in the micrositing of the Project.

On April 11, 2011, Noble and RFM filed a Stipulation for Order Closing Record and Dismissing Contested Case Proceeding ("Stipulation")(Attachment 1) informing the Commission that the Parties have successfully resolved all claims that have been raised in the Commission Proceedings and requesting the Commission to issue an order (1) closing the record in Docket No. IP-6687/TL-08-988 (HVTL routing permit) and Docket No. IP-6687/WS-08-1134 (LWECS site permit); (2) dismissing the Contested Case Proceeding; and (3) providing other and further relief as is specified in a proposed order attached to the Stipulation.

The Commission met on May 12, 2011 to consider this matter

ORDER

1. The Commission finds that, as a result of the withdrawal of all challenges by RFM and the resolution of all claims that have been raised by RFM in the Commission Proceedings, there is no need for (a) further studies or testing to show that the Project can be compatible with RFM's operations; (b) supplementation of the evidentiary record on issues regarding the potential for impacts of the Project on RFM's operations; (c) completion of the five studies concerning the impacts associated with the presence of RFM's directional antenna system that Noble previously committed to provide as part of the micrositing process in the siting and routing dockets; or (d) other consideration of the impacts of the Project on RFM's operations in the micrositing of the Project.
2. The Commission closes the record in Docket No. IP-6687/TL-08-988 (HVTL routing permit) and Docket No. IP-6687/WS-08-1134 (LWECS site permit).
3. The Commission dismisses the Contested Case Proceeding previously referred to the OAH.
4. The Project Permits are affirmed without modification, except the time for commencement of construction of the Project and demonstrating that the Project has obtained a Power Purchase Agreement or other enforceable mechanism for the sale of electricity from the Project under the LWECS Site Permit which is extended to two years from the effective date of this Order.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary



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STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Ellen Anderson
Dr. David C. Boyd
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Chair
Commissioner
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HEARINGS

In the Matter of the Application of Noble Flat Hill Windpark I, LLC for a Certificate of Need for a Large Energy Facility, a 201 MW Large Wind Energy Conversion System and Associated Facilities in Clay County

Docket No. IP-6687/CN-08-51

In the Matter of the Application for a Route Permit for the Noble Flat Hill Windpark I 230 kV Transmission Line

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In the Matter of the Noble Application for a Large Wind Energy Conversion System (LWECS) Site Permit for the Noble Flat Hill Windpark I Project in Clay County

Docket No. IP-6687/WS-08-1134

**STIPULATION FOR ORDER CLOSING RECORD AND DISMISSING
CONTESTED CASE PROCEEDING**

This Stipulation for Order Closing Record and Dismissing Contested Case Proceeding ("Stipulation") is made and entered into as of this 5th day of April 2011, by and between Radio Fargo-Moorhead, Inc. ("RFM"), a North Dakota Corporation with its principal place of business at 1020 S. 25th Street, Fargo, North Dakota 58103, and Noble Flat Hill Windpark I, LLC ("Noble"), a Delaware Limited Liability Company with its principal place of business at 8 Railroad Avenue, Essex, Connecticut 06426 (each individually a "Party" and collectively "the Parties").

RECITALS

WHEREAS, RFM owns and operates radio station KVOX(AM), which is a 50 kilowatt daytime, 7.5 kilowatt critical hours, and 940 watt nighttime radio station utilizing a 6-tower AM directional antenna system licensed by the Federal Communications Commission ("FCC"). The licensed transmitter site for KVOX(AM) is located in Spring Prairie Township, Minnesota on a 36.03 acre tract on the west side of Highway 9, just south of its intersection with Highway 26. The KVOX(AM) transmitter site includes six towers each approximately 306 feet tall ("Antenna Array").

WHEREAS, Noble is the developer of Noble Flat Hill Windpark I (“Project”) as approved by the Minnesota Public Utilities Commission (“Commission”) in a Certificate of Need (“CON”), a large wind energy conversion system (“LWECS”) site permit, and a HVTL route permit (collectively, the “Project Permits”) issued in Commission Docket Nos. IP-6687/CN-08-951, IP-6687/TL-08-988 and IP-6687/WS-08-1134 (“Commission Proceedings”). The Project is to be constructed in Clay County, Minnesota near the City of Glyndon and about 10 miles northeast of the City of Moorhead. When constructed, the Project will include up to 134 wind turbines with a combined generating capacity of up to 201 MW and a new 230 kV high voltage transmission (“HVTL”) to transport electricity generated by the turbines to the electric power grid.

WHEREAS, on March 22, 2010, RFM filed Petitions for Writ of Certiorari with the Minnesota Court of Appeals, appealing the Commission’s grant of the LWECS site permit and HVTL route permit for the Project (“RFM Appeal”).

WHEREAS, on April 20, 2010, the Minnesota Court of Appeals issued an order dismissing the RFM Appeal and remanding the matter to the Commission for further proceedings.

WHEREAS, on May 26, 2010, RFM filed a Petition for Vacation or Rehearing of the Commission’s orders granting the Project Permits to Noble alleging, among other things, that the construction of the Project would unreasonably interfere with the operation of RFM’s Radio Station KVOX(AM) (“RFM Petition”).

WHEREAS, on August 25, 2010, the Commission issued an order (1) reopening the record in Docket No. IP-6687/TL-08-988 (HVTL routing permit) and Docket No. IP-6687/WS-08-1134 (LWECS site permit) for the limited purpose of supplementing the evidentiary record on issues regarding the potential for impacts of the Project on RFM’s operations; and (2) referring the matter to the Office of Administrative Hearings (“OAH”) to conduct a contested case proceeding (“Contested Case Proceeding”) specifically addressing the potential for impacts on RFM’s operations.

WHEREAS, the Parties have reached a settlement resolving all issues pending before the Commission and OAH relating to the Project, including without limitation, all issues raised in the RFM Petition.

WHEREAS, RFM has agreed to withdraw all challenges raised in the RFM Petition respecting the Project Permits in the Commission Proceedings and agrees that the Project Permits should be affirmed by the Commission.

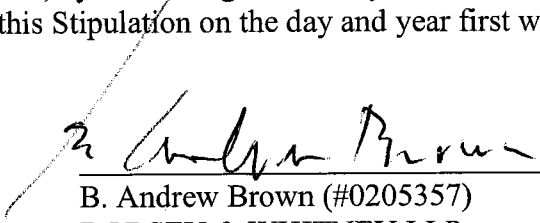
WHEREAS, the Parties desire to enter into this Stipulation to be filed with the Commission informing the Commission that the Parties have successfully resolved all claims that have been raised in the Commission Proceedings and to request the Commission to issue an order in the form of the Proposed Order attached to this Stipulation (1) closing the record in Docket No. IP-6687/TL-08-988 (HVTL routing permit) and Docket No. IP-6687/WS-08-1134 (LWECS site permit); (2) dismissing the Contested Case Proceeding; and (3) for such other and further relief as is specified in the Proposed Order.

NOW, THEREFORE, in consideration of the promises and covenants contained in this Stipulation, the legal sufficiency of which the Parties acknowledge, the Parties hereby agree as follows:

1. **Recitals.** The above recitals are hereby specifically incorporated herein.
2. **Withdrawal of Challenges.** RFM withdraws all challenges raised in the RFM Petition respecting the Project Permits in the Commission Proceedings. RFM agrees that the Project Permits should be affirmed by the Commission without modification, except to the extent necessary to reflect an extension of the time allowed for commencement of construction of the Project under the Project Permits for two years from the effective date of the Commission's order dismissing the Contested Case Proceeding.
3. **Resolution of all Claims.** The Parties have successfully resolved all claims that have been raised between them in the Commission Proceedings. Based on the settlement between the parties, RFM does not object to the Project.
4. **No Need for Additional Studies or Findings.** RFM no longer seeks any of the relief sought in the RFM Petition or that could have otherwise been provided to RFM in the Commission Proceedings, including but not limited to (a) further studies or testing to show that the Project can be compatible with RFM's operations; (b) supplementation of the evidentiary record on issues regarding the potential for impacts of the Project on RFM's operations; (c) completion of the five studies concerning the impacts associated with the presence of RFM's directional antenna system that Noble previously committed to provide as part of the micrositing process in the siting and routing dockets; or (d) other consideration of the impacts of the Project on RFM's operations in the micrositing of the Project.
5. **Request for Commission Order.** The Parties respectfully request the Commission to issue an order in the form of the Proposed Order attached to this Stipulation (1) closing the record in Docket No. IP-6687/TL-08-988 (HVTL routing permit) and Docket No. IP-6687/WS-08-1134 (LWECS site permit); (2) dismissing the Contested Case Proceeding; and (3) for such other and further relief as is specified in the Proposed Order.

IN WITNESS WHEREOF, the Parties, by and through their duly authorized attorneys, have hereunder set their hands and entered into this Stipulation on the day and year first written above.

Dated: April 5, 2011


B. Andrew Brown (#0205357)
DORSEY & WHITNEY LLP
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402-1498
Telephone: (612) 340-2600

ATTORNEYS FOR RADIO FARGO-
MOORHEAD, INC

Dated: 3/30/11, 2011



Brian M. Meloy (#287209)
Matthew B. Seltzer (#130874)
Andrew J. Gibbons (#0389692)
LEONARD, STREET AND DEINARD
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150 South Fifth Street, Suite 2300
Minneapolis, MN 55402
Telephone: (612) 335-1500
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ATTORNEYS FOR NOBLE FLAT HILL
WINDPARK I, LLC

Exhibit A

Proposed Order

STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Ellen Anderson
Dr. David C. Boyd
J. Dennis O'Brien
Phyllis Reha
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

ISSUE DATE: _____

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**ORDER CLOSING RECORD AND DISMISSING
CONTESTED CASE PROCEEDING**

PROCEDURAL HISTORY

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In February 2010, the Commission issued three orders granting Noble (1) a Certificate of Need ("CON"), (2) a large wind energy conversion system ("LWECS") site permit, and (3) a HVTL route permit (collectively, the "Project Permits") issued in Commission Docket Nos. IP-6687/CN-08-951, IP-6687/TL-08-988 and IP-6687/WS-08-1134 ("Commission Proceedings").

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The Contested Case Proceeding was assigned to Administrative Law Judge Beverly Jones Heydinger (“ALJ”) who held a prehearing conference on October 11, 2010. Counsel for Noble, RFM, and the Office of Energy Security, Energy Facility Permitting Staff (“Department”) appeared at and participated in the prehearing conference. Commission and Department staff were also present. Noble and RFM advised the ALJ that they were engaged in settlement negotiations. The ALJ continued the matter for a subsequent prehearing conference. No schedule was set for an evidentiary hearing and no evidentiary hearing has been held to date.

Through their own meetings and negotiations, Noble and RFM have reached a settlement resolving all issues raised in the RFM Petition, including but not limited to RFM’s stated concern that the construction of the Project would unreasonably interfere with the operation of RFM’s Radio Station KVOX(AM).

RFM has withdrawn all challenges raised in the RFM Petition respecting the Project Permits in the Commission Proceedings and agrees that the Project Permits should be affirmed by the Commission. Based on the settlement between the parties, RFM does not object to the Project.

RFM has informed the Commission that RFM no longer seeks any of the relief sought in the RFM Petition, including but not limited to (1) further studies or testing to show that the Project can be compatible with RFM’s operations; (2) supplementation of the evidentiary record on issue regarding the potential for impacts of the Project on RFM’s operations; or (3) consideration of the impacts of the Project on RFM’s operations in the micrositing of the Project.

On _____, 2011, Noble and RFM filed a Stipulation for Order Closing Record and Dismissing Contested Case Proceeding (“Stipulation”) informing the Commission that the Parties have successfully resolved all claims that have been raised in the Commission Proceedings and requesting the Commission to issue an order (1) closing the record in Docket No. IP-6687/TL-08-988 (HVTL routing permit) and Docket No. IP-6687/WS-08-1134 (LWECS site permit); (2) dismissing the Contested Case Proceeding; and (3) providing other and further relief as is specified in a proposed order attached to the Stipulation.

The Commission met on _____, 2011 to consider this matter.

ORDER

1. The Commission finds that, as a result of the withdrawal of all challenges by RFM and the resolution of all claims that have been raised by RFM in the Commission Proceedings, there is no need for (a) further studies or testing to show that the Project can be compatible with RFM’s operations; (b) supplementation of the evidentiary record on issues regarding the potential for impacts of the Project on RFM’s operations; (c) completion of the five studies concerning the impacts associated with the presence of RFM’s directional antenna system that Noble previously committed to provide as part of the micrositing process in the siting and routing dockets; or (d) other consideration of the impacts of the Project on RFM’s operations in the micrositing of the Project.
2. The Commission closes the record in Docket No. IP-6687/TL-08-988 (HVTL routing permit) and Docket No. IP-6687/WS-08-1134 (LWECS site permit).
3. The Commission dismisses the Contested Case Proceeding previously referred to the OAH.
4. The Project Permits are affirmed without modification, except the time for commencement of construction of the Project under the Project Permits is extended for two years from the effective date of this Order.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Harl
Executive Secretary

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
ADMINISTRATIVE LAW SECTION
600 NORTH ROBERT STREET
ST. PAUL, MN 55101

CERTIFICATE OF SERVICE

<p>Case Title: <i>In the Matter of the Application of Noble Flat Hill Windpark I, LLC, for a Certificate of Need for a large Energy Facility, a 201 MW Large Wind Energy Conversion System and Associated Facilities in Clay County</i></p> <p><i>In the Matter of the Application for a Route Permit for the Noble Flat Hill Windpark I 230 kV Transmission Line Project</i></p> <p><i>In the Matter of the Noble Application for a Large Wind Energy Conversion System (LWECS) Site Permit for the Noble Flat Hill Windpark I Project in Clay County</i></p>	<p>OAH Docket No. 15-2500-20657-2; PUC No. IP-6687/CN-08-951, IP-6687/TL-08-988; IP-6687/WS-08-1134</p>
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Nancy J. Hansen certifies that on the 11th day of April, 2011, she served a true and correct copy of the attached Recommendation for Dismissal, by serving it by U S Mail with postage prepaid, addressed to the following:

<p>Dr. Burl Haar MN Public Utilities Commission 350 Metro Square Building 121 Seventh Place East St. Paul, MN 55101</p>	
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and by e-filing as listed on the attached service lists.

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Service List Member Information

Electronic Service Member(s)

Last Name	First Name	Email	Company Name	Delivery Method	View Trade Secret
Birkholz	David	David.Birkholz@state.mn.us	Office of Energy Security	Electronic Service	Yes
Brown	B. Andrew	brown.andrew@dorsey.com	Dorsey & Whitney LLP	Electronic Service	No
DeBleeckere	Patricia	tricia.debleeckere@state.mn.us	Public Utilities Commission	Electronic Service	Yes
Ferguson	Sharon	sharon.ferguson@state.mn.us	Department of Commerce	Electronic Service	Yes
Haar	Burl W.	burl.haar@state.mn.us	Public Utilities Commission	Electronic Service	Yes
Hammel	Karen Finstad	Karen.Hammel@state.mn.us	Office of the Attorney General-DOC	Electronic Service	Yes
Seltzer	Matthew B.	Matthew.Seltzer@leonard.com	Leonard, Street & Deinard	Electronic Service	No
Shaddix Elling	Janet	jshaddix@janetshaddix.com	Shaddix And Associates	Electronic Service	Yes

Paper Service Member(s)

Last Name	First Name	Company Name	Address	Delivery Method	View Trade Secret
Heydinger	Beverly	Office of Administrative Hearings	PO Box 64620, St. Paul, MN-551640620	Paper Service	Yes

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Service List Member Information

Electronic Service Member(s)

Last Name	First Name	Email	Company Name	Delivery Method	View Trade Secret
Anderson	Julia	Julia.Anderson@state.mn.us	Office of the Attorney General-DOC	Electronic Service	No
Ferguson	Sharon	sharon.ferguson@state.mn.us	Department of Commerce	Electronic Service	Yes
Haar	Burl W.	burl.haar@state.mn.us	Public Utilities Commission	Electronic Service	Yes
Lindell	John	agorud.ecf@state.mn.us	Office of the Attorney General-RUD	Electronic Service	No

Paper Service Member(s)

Last Name	First Name	Company Name	Address	Delivery Method	View Trade Secret
Brown	B. Andrew	Dorsey & Whitney LLP	Suite 1500, 50 South Sixth Street, Minneapolis, MN-554021498	Paper Service	No
Meloy	Brian	Leonard, Street & Deinard	150 S 5th St Ste 2300, Minneapolis, MN-55402	Paper Service	No

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