

December 9, 2020

Mr. Will Seuffert, Executive Secretary
Minnesota Public Utilities Commission
127 7th Place East, Suite 350
Saint Paul, MN 55101-2147

RE: In the Matter of the Application of Walleye Wind, LLC for a Certificate of Need for the Walleye Wind Project and Associated Facilities in Rock County

In the Matter of the Application of Walleye Wind, LLC for a Site Permit for the Walleye Wind Project and Associated Facilities in Rock County

PUC Docket No. IP7026/CN-20-269, WS-20-384

Dear Mr. Seuffert:

Attached are the comments and recommendations of the Minnesota Department of Commerce, Energy Environmental Review and Analysis (EERA) staff in the above matters.

Walleye Wind, LLC (Walleye Wind) proposes to construct and operate the 109.2 megawatt (MW) Walleye Wind Project (the Project) located in Rock County, Minnesota. On November 4, 2020, Walleye Wind filed amended certificate of need and site permit applications, updating information in the certificate of need and site permit applications filed with the Commission on July 9, 2020.

The attached comments, filed in response to the Commission's Notice of Comment Period in the above matters issued November 19, 2020, address the completeness of the applications, process issues, and other issues related to the development of the record these matters.

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These comments are based on EERA staff review of the applications and the record to date. EERA staff is available to answer any questions the Commission may have.

Sincerely,

A handwritten signature in black ink that reads 'Suzanne Lamb Steinhauer'. The signature is written in a cursive, flowing style.

Suzanne Lamb Steinhauer
EERA Environmental Review Manager

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**COMMENTS AND RECOMMENDATIONS OF
MINNESOTA DEPARTMENT OF COMMERCE
ENERGY ENVIRONMENTAL REVIEW AND ANALYSIS**

DOCKET NO. IP7026/CN-20-269, WS-20-384

Date: December 9, 2020**EERA Staff:** Suzanne Steinhauer | 651-539-1843 | Suzanne.steinhauer@state.mn.us

In the Matter of the Application of Walleye Wind, LLC for a Certificate of Need for the Walleye Wind Project and Associated Facilities in Rock County**In the Matter of the Application of Walleye Wind, LLC for a Site Permit for the Walleye Wind Project and Associated Facilities in Rock County**

Issues Addressed: These comments and recommendations address the completeness of the amended certificate of need and LWECS site permit applications, process requirements, and other issues related to this matter.

Additional documents and information can be found on eDockets:

<https://www.edockets.state.mn.us/EFiling/search.jsp> (20-269 (Certificate of Need), 20-384 (LWECS Site Permit)) and on the Department of Commerce's website: <http://mn.gov/commerce/energyfacilities>.

This document can be made available in alternative formats (i.e., large print or audio) by calling 651-539-1530 (voice).

Introduction and Background

On July 9, 2020, Walleye Wind, LLC (Walleye Wind or Applicant, a wholly-owned subsidiary of NextEra Energy Resources, LLC, based in Juno Beach, Florida) filed two separate applications in support of its proposed 110.8 megawatt (MW) Walleye Wind Project (the Project) to be located in Rock County:

- a certificate of need application for the wind farm,¹ and
- a large wind energy conversion system (LWECS) site permit application.²

Following a comment period, the Commission determined the applications were complete and established certain review procedures in its October 20, 2020 Order.³

On November 4, 2020, Walleye Wind filed amended certificate of need⁴ and site permit⁵ applications.

On November 19, 2020, the Commission issued a notice soliciting comments on the completeness of the applications and other matters.⁶ The notice requested comments on:

- Does the Site Permit Application Amendment filed on November 4, 2020 contain the information necessary to continue the review processes?
- If so, are there additional process requirements the Commission should establish for the review of the Site Permit Application as amended?
- Are there other issues or concerns related to this matter?

Much of the information addressed in the Department of Commerce Energy Environmental Review and Analysis (EERA) staff's July 31st completeness comments⁷ (e.g. Applicant information, project purpose, overview of regulatory process and procedures) remains the same as at the time of the original applications is not repeated in these comments.

Project Description

The project, as described in the amended application is substantially the same as that described in the original application. The most notable changes are changes to the proposed layout that result in the slight reduction in nameplate capacity to 109.2 MW, modifications to total length of access roads and underground collector lines, and a removal of one of the turbine models under consideration.

Walleye Wind proposes to construct up to 40 wind turbines and associated facilities including underground electric collector lines, a new collector substation, and operations and maintenance facility, permanent meteorological towers, and gravel access roads. The proposed site, shown in Attachment 2, is approximately 49 square miles (31,000 acres) located in Rock County (Beaver Creek,

¹ Walleye Wind, LLC, *Application for a Certificate of Need*, July 9, 2020. eDocket ID: [20207-164773-01](#), [20207-164773-02](#)

² Walleye Wind, LLC, *Application for a Large Wind Energy Conversion System Site Permit*. July 9, 2020. eDocket ID: [20207-164776-01](#), -02, -03, -04, -05, -06, -07, 08, -09, [20207-164777-01](#), -02, -03, -04, -05, -06 (trade secret), -07, -08, -09, -10 (trade secret), [20207-164778-01](#), -02, -03 (trade secret), -04 (trade secret), -05

³ Commission, *Order Accepting Applications as Complete, Establishing Review Procedures, and Granting Variances*, October 20, 2020, eDocket ID: [202010-167530-01](#),

⁴ Walleye Wind, *Amended Certificate of Need Application*, November 4, 2020. eDocket ID: [202011-168044-01](#), [202011-168044-02](#), [202011-168044-03](#)

⁵ Walleye Wind, *Amended Site Permit Application*, November 4, 2020, eDocket ID: [202011-168046-01](#), -02, -03, -04, -05, -06

⁶ Public Utilities Commission, *Notice of Comment Period on Application Completeness*, July 21, 2020, eDockets ID: [202011-168440-02](#)

⁷ Department of Commerce Energy and Environmental Review and Analysis (EERA) Comments on Completeness, July 31, 2020 (eDocket ID: [20207-165478-02](#))

Luverne, Martin, and Springwater townships).⁸ Although four potential General Electric (GE) turbine models were proposed in the July application, Walleye Wind has narrowed the potential turbine models to three models:⁹

- 2.82 MW turbine: 114-meter (m) (374 ft) hub height, 127.2 m (417 ft) rotor diameter (RD), total height (ground to tip of fully extended blade) of 178.1 m (584.3 ft)
- 2.82 MW turbine: 89 m (292 ft) hub height, 127.2 m (417 ft) RD, total height of 152.1 m (499 ft)
- 2.32 MW turbine: 80 m hub height, 116.5 m (382 ft) RD, total height of 138.3 m (453.7ft)

In the November amendment, Walleye states it has approximately 70 percent of the land required for construction and operation, and 80 percent of the land required for the actual infrastructure.¹⁰ Easement acquisitions have substantially increased since the 40 percent represented in the July application. Easement negotiations are ongoing, and Walleye Wind states it anticipates having sufficient signed land rights by February 2021.¹¹ Walleye Wind anticipates commencing construction of the project during the third quarter of 2021, with an anticipated commercial operation date (COD) of December 31, 2021.¹²

EERA Staff Analysis and Comments

EERA staff provides the following analysis and comments in response to the Commission's notice requesting comments on completeness and other issues related to the procedures to review and process the applications.

Completeness of Applications

EERA staff has reviewed the amended site permit application pursuant the requirements of Minnesota Rule 7854 (Wind Siting Rules) (see Table1) and believes that the application generally provides the information required by Minnesota Rule 7854.0500 in a format that members of the public can access.

EERA staff has reviewed the certificate of need application pursuant to the requirements of Minnesota Rule 7849.0310 (Environmental Information Required). EERA staff believes that, when combined with the more detailed information contained in the site permit application, the sum of the information provided is sufficient to begin review of the project. EERA staff notes it will request additional and more detailed information from Walleye Wind during the ER scoping period.

Process requirements

Based on its review of the applications and public comments to date, EERA staff has not to date identified any contested issues of fact. The Commission's Order of October 20, 2020, referred the matters to the Office of Administrative Hearings (OAH) for an informal hearing on the certificate of need proceeding. Although EERA staff is not aware of any particular issues with the proposed Walleye Wind Project, we recommend a full Administrative Law Judge (ALJ) report with comments and recommendations. The full ALJ report with recommendations provides an unbiased, efficient, and transparent method to air and resolve any issues that may emerge as the record develops. Requiring the

⁸ Amended Site Permit Application, at p. 6

⁹ Amended Site Permit Application, at p. 14

¹⁰ Amended Site Permit Application., at p. 8

¹¹ Amended Site Permit Application., at p. 8

¹² Amended Site Permit Application., at p. 139

full ALJ report reduces the burden on Commission staff and helps to ensure that the Commission has a robust record on which to base its decision.

Other Issues or Concerns

EERA staff has identified a few issues that may benefit from further development in the record. While EERA staff does not believe these issues preclude Commission acceptance of the application or require any Commission action at this time, EERA staff wishes to draw the Commission's attention to these issues early in the process.

Consistency with Local Zoning

Rock County has more restrictive zoning for projects permitted by the county. In a letter dated July 6, 2020 (Appendix A), the chair of the Rock County Board of Commissioners clarified that the intent of county's ordinance is to regulate the construction and operation of WECS not otherwise subject to oversight by the Commission. EERA staff will clarify the variances between county and state requirements to ensure the Commission has a clear record on which to determine whether there is reason to vary from the local ordinance.

Noise

The layout modifications shown in the amended application result in two turbines located somewhat closer (1325 and 1355 feet) to homes than the 1400 feet setback that Walleye Wind has generally set as a goal.¹³ With the layout changes, Walleye Wind plans to increase the number of turbines using NRO from three to six.¹⁴ Turbines using NRO can reduce the sound produced by reducing rotor speed and changing the blade angles. EERA staff will continue to review the noise information in the application to ensure a well-developed record by the time of the Commission's permit decision.

Shadow Flicker

Using conservative modeling assumptions (receptors were modeled as having windows on all sides and surrounding areas are assumed to have no vegetation) eleven receptors, four of which are non-participating receptors, are expected to have over 30 hours of flicker per year. The maximum expected duration for participating residences is 45 hours, 49 minutes, and the maximum expected duration for a non-participating residence is 38 hours, 36 minutes.¹⁵

Wildlife Impacts

Minnesota DNR has expressed concern with project's potential impacts to bats (Appendix A). EERA staff will continue to review the site characteristics and the Avian and Bat Protection Plan to ensure a robust record for the Commission's decision.

Schedule

In order to qualify for the production tax credit, Walleye Wind requests that the Commission issue its order on permit decision no later than August 2021.¹⁶ EERA staff notes that the proposed milestones identified in Table 52 indicating a 3-4 month construction period are inconsistent with the 5-7 month construction timeline discussed in earlier in section 10.0 of the application.¹⁷ EERA staff's proposed

¹³ Amended Site Permit Application, at p. 35

¹⁴ Amended Site Permit Application, at p. 33

¹⁵ Amended Site Permit Application, at pp. 46-47, Appendix C

¹⁶ Amended Site Permit Application, at p. 139

¹⁷ Amended Site Permit Application at p. 140

concept schedule (Table 2) was developed in an effort to respond to Walleye Wind's schedule pressure while ensuring a predictable and thorough review process. EERA staff believes the proposed concept schedule is aggressive but also realistic and maintains opportunities for public involvement in the review process.

In addition to the permitting schedule EERA staff is evaluating the feasibility of moving some of the typical pre-construction filings into the record available at the time of the permit decision in order to more fully inform the decision record and potentially shorten the lag between the permit order and construction. Although some of the pre-construction filings (e.g. site plans) are dependent upon the actual permit issued, some of these filings, for instance the Prairie Protection Management Plan (PPMP), may be suitable for development earlier in the process. EERA and DNR staff are exploring whether there are opportunities to provide review of the PPMP earlier in the process. If this approach seems viable, EERA and DNR staff will work with Walleye Wind to develop a PPMP consistent with Walleye Wind's anticipated project layout. The PPMP would need to be reviewed for consistency with the site plans filed prior to construction and changes in layout that come after the hearing period would result in a delay in review. EERA staff will provide more information in its comments on a preliminary draft site permit in early 2021.

EERA Staff Recommendations

Application Completeness

EERA staff does not believe that any information provided in the amended application or public comments filed in the record as of December 8, 2020, should cause a change in the Commission's acceptance in its Order of October 20, 2020. EERA believes the public information and scoping process can move forward without further Commission action prior to its consideration of whether to issue a Draft Site Permit.

Procedural Changes:

EERA staff recommends that the Commission requests a full ALJ report including findings and recommendations, when it refers the matter to the OAH.

Table 1 - LWECS Site Permit Application Completeness

SITE PERMIT APPLICATION CONTENTS	Location in Site Permit Application	EERA Staff Comments
Subpart 1. Applicant		
(A) A letter of transmittal signed by an authorized representative or agent of the applicant	1.1, Separately Submitted Cover Letter	Information is provided to satisfy this requirement.
(B) The complete name, address, and telephone number of the applicant and any authorized representative	1.2	Information is provided to satisfy this requirement.
(C) The signature of the preparer of the application if prepared by an agent or consultant of the applicant	1.3	Information is provided to satisfy this requirement.
(D) The role of the permit applicant in the construction and operation of the LWECS	1.4, 1.5	Information is provided to satisfy this requirement.
(E) Other applicant-affiliated LWECS located in Minnesota	1.6	Information is provided to satisfy this requirement.
(F) The operator of the LWECS if different from the applicant	N/A (see 1.5)	Information is provided to satisfy this requirement.
(G) The name of the person or persons to be the permittees if a site permit is issued	1.2	Information is provided to satisfy this requirement.
Subpart 2. Certificate of Need or Other Commitment		
(A) Statement of certificate of need requirements and anticipated schedule.	2.0	Information is provided to satisfy this requirement.
(B) The commission may determine if a certificate of need is required for a particular LWECS for which the commission has received a site permit application	2.0	Information is provided to satisfy this requirement.
(C) Statement of intended power use, status of power purchase agreement or other enforceable mechanism.	2.0	Information is provided to satisfy this requirement.
Subpart 3. State Policy		
How the proposed LWECS project furthers state policy to site such project in an orderly manner compatible with environmental preservation, sustainable development, and the efficient use of resources.	3.0	Information is provided to satisfy this requirement.
Subpart 4. Proposed Site		
(A) The boundaries of the site proposed for the LWECS	4.1, Maps 1 and 2	Information is provided to satisfy this requirement.
(B)(1) Wind Characteristics: interannual variation	9.1.1	Information is provided to satisfy this requirement.
(B)(2) Wind Characteristics: seasonal variation	9.1.2	Information is provided to satisfy this requirement.
(B)(3) Wind Characteristics: diurnal conditions	9.1.3	Information is provided to satisfy this requirement.
(B)(4) Wind Characteristics: atmospheric stability	9.1.4	Information is provided to satisfy this requirement.

SITE PERMIT APPLICATION CONTENTS	Location in Site Permit Application	EERA Staff Comments
(B)(5) Wind Characteristics: turbulence	9.1.5	Information is provided to satisfy this requirement.
(B)(6) Wind Characteristics: extreme conditions	9.1.6	Information is provided to satisfy this requirement.
(B)(7) Wind Characteristics: speed frequency distribution	9.1.7	Information is provided to satisfy this requirement.
(B)(8) Wind Characteristics: variation with height	9.1.8	Information is provided to satisfy this requirement.
(B)(9) Wind Characteristics: spatial variation	9.1.9	Information is provided to satisfy this requirement.
(B)(10) Wind Characteristics: wind rose	9.1.10	Information is provided to satisfy this requirement.
(C) Other meteorological information about the site.	9.1.11	Information is provided to satisfy this requirement.
(D) The location of other wind turbines in the general area of the proposed LW ECS	9.2, Map 5	Information is provided to satisfy this requirement.
Subpart 5. Wind Rights		
Description of applicant's wind rights	4.6, 7.0, Map 15	Information is provided to satisfy this requirement.
Subpart 6. Project Design		
(A) A project layout, including a map showing a proposed array spacing of the turbines	5.1, Map 2	Information is provided to satisfy this requirement.
(B) Description of the turbines, towers and other equipment to be used in the project	5.2	Information is provided to satisfy this requirement.
(C) Description of the LW ECS electrical system, including transformers at both low voltage and medium voltage	5.3	Information is provided to satisfy this requirement.
(D) Description and location of associated facilities	6.0, Map 2	Information is provided to satisfy this requirement.
Subpart 7. Environmental Impacts		
(A) Demographics, including people, homes, and businesses	8.1, 8. 2	Information is provided to satisfy this requirement.
(B) Noise	8.4	Information is provided to satisfy this requirement.
(C) Visual impacts	8.5	Information is provided to satisfy this requirement.
(D) Public services and infrastructure	8.6	Information is provided to satisfy this requirement.
(E) Cultural and archaeological impacts	8.7	Information is provided to satisfy this requirement.
(F) Recreational resources	8.8	Information is provided to satisfy this requirement.

SITE PERMIT APPLICATION CONTENTS	Location in Site Permit Application	EERA Staff Comments
(G) Public health and safety, including air traffic, electromagnetic fields, and security and traffic	8.9	Information is provided to satisfy this requirement.
(H) Hazardous materials	8.10	Information is provided to satisfy this requirement.
(I) Land-based economics, including agriculture, forestry, and mining	8.11	Information is provided to satisfy this requirement.
(J) Tourism and community benefits	8.12, 8.13	Information is provided to satisfy this requirement.
(K) Topography	8.14	Information is provided to satisfy this requirement.
(L) Soils	8.15	Information is provided to satisfy this requirement.
(M) Geologic and groundwater resources	8.16	Information is provided to satisfy this requirement.
(N) Surface water and floodplain resources	8.17	Information is provided to satisfy this requirement.
(O) Wetlands	8.18	Information is provided to satisfy this requirement.
(P) Vegetation	8.19	Information is provided to satisfy this requirement.
(Q) Wildlife	8.20	Information is provided to satisfy this requirement.
(R) Rare and unique natural resources	8.21	Information is provided to satisfy this requirement.
Subpart 8. Construction of the Project		
The applicant shall describe the manner in which the project, including associated facilities, will be constructed	10.0-10.5	Information is provided to satisfy this requirement.
Subpart 9. Operation of the Project		
Description of how the project will be operated and maintained after construction, including a maintenance schedule	10.6	Information is provided to satisfy this requirement.
Subpart 10. Costs		
Description of the estimated costs of design and construction of the project and the expected operating costs.	10.7	Information is provided to satisfy this requirement.
Subpart 11. Schedule		
Anticipated schedule for completion of the project, including major milestones, and expected date of commercial operation (COD).	10.8	Information is provided to satisfy this requirement.
Subpart 12. Energy Projections		
Energy expected to be generated by the Project	10.9	Information is provided to satisfy this requirement.

SITE PERMIT APPLICATION CONTENTS	Location in Site Permit Application	EERA Staff Comments
Subpart 13. Decommissioning		
(A) The anticipated life of the project	Appendix J; 11.1	Information is provided to satisfy this requirement.
(B) The estimated decommissioning costs in current dollars	Appendix J; 11.6	Information is provided to satisfy this requirement.
(C) The method and schedule for updating the costs of decommissioning and restoration	Appendix J; 11.7	Information is provided to satisfy this requirement.
(D) The method of ensuring that funds will be available for decommissioning and restoration	Appendix J; 11.8	Information is provided to satisfy this requirement.
(E) The anticipated manner in which the project will be decommissioned and the site restored	Appendix J; 11.2-11.5	Information is provided to satisfy this requirement.
Subpart 14. Identification of Other Permits		
A list of all known federal, state, and local agencies or authorities, and titles of the permits they issue that are required for the proposed LWECS.	12.0	Information is provided to satisfy this requirement.

Table 2 - EERA Concept Schedule

(Changes from July 31, 2020 Comments shown in ~~strikeout~~ and underline)

Number	Certificate of Need Application (CN)	Site Permit Application (LWECS)	Date (Estimated dates denoted by *)	Notes
1	Application Filed	Application Filed	7/09/2020	
2	Notice of Comment Period on Completeness	Notice of Comment Period on Completeness	7/21/2020	
	Completeness Comments Due	Completeness Comments Due	7/31/2020	
	Commission Considers Completeness	Commission Considers Completeness	<u>August 27, 2020</u>	
3	Order Accepting Application	Order Accepting Application	<u>October 20, 2020</u>	Review start dates: CN: 7/09/2020 (filing date) LWECS: Order accepting Application
	<u>Application Amendment</u>	<u>Application Amendment</u>	<u>November 4, 2020</u>	
4	Notice of Application Acceptance and ER Scoping Meeting	Notice of Application Acceptance and Public Information Meeting	<u>October 29, 2020</u>	Notice requirements differ: <ul style="list-style-type: none"> CN: Notice at least 15 days prior to meeting. Meeting required to be held 40 days from filing date (this will require a variance from the rule). LWECS: Notice of Application Acceptance required 15 days after acceptance of application.
	<u>Notice of ER Scoping Meeting</u>	<u>Notice of Public Information Meeting</u>	<u>December 2020*</u>	<ul style="list-style-type: none"> CN: <u>Notice at least 15 days prior to meeting. Meeting required to be held 40 days from filing date (this will require a variance from the rule).</u>

Number	Certificate of Need Application (CN)	Site Permit Application (LWECS)	Date (Estimated dates denoted by *)	Notes
5	ER Scoping Meeting	Public Information Meeting on Draft Site Permit Template	October/November 2020 <u>January 2021*</u>	This meeting is an additional public meeting in the LWECS siting process, as the required meeting is typically held later in the siting process. The required or second public meeting is generally combined with the public hearing later in the process.
6	ER Scoping Comment Period Closes	Draft Site Permit Template Comment Period Closes	November/December 2020 <u>January 2021*</u>	For both processes, the comment period opens with the notice: <ul style="list-style-type: none"> • CN: minimum 20-day comment period from meeting date. • LWECS: No comment period prescribed.
7	ER Scope Issued	N/A	December 2020/ <u>February 2021*</u>	<ul style="list-style-type: none"> • CN/ER: Within 10 days of close of comment period
8	N/A	Preliminary Draft Site Permit	December 2020/ <u>February 2021*</u>	EERA submits Preliminary Draft Site Permit.
	N/A	Order Issuing Draft Site Permit	February 2021 <u>March 2021*</u>	Within 45 days of application acceptance (<u>this will require a variance from the rule</u>).
9	Comment and Reply on Merits of CN Application Starts	Comments on Draft Site Permit Starts		<ul style="list-style-type: none"> • CN: No limit. • LWECS: Minimum 30 days after publication.
10	ER Issued	N/A	February/ <u>April 2021*</u>	To be completed within 4 months from application filing (this will require a variance from the Minnesota Rule 7849.1400, subpart 10).
11	Notice of ER Availability/ Public Hearing	Notice of Public Information Meeting/Public Hearing	February/ <u>April 2021*</u>	Minimum 10 days prior to public information meeting on DSP (MR 7854.0900, sp. 4)

Number	Certificate of Need Application (CN)	Site Permit Application (LWECS)	Date (Estimated dates denoted by *)	Notes
12	Joint Public Hearing/ Public Meeting	Joint Public Hearing/ Public Meeting	March <u>April 2021*</u>	Covers both CN and Site Permit Applications
13	Comment Period on Merit Closes	Comment Period on Draft Site Permit Closes	April <u>May 2021*</u>	Corresponds w/ close of Public Hearing comment period. Minimum 30 days from notice of availability of DSP (MR 7854.0900, sp 3) and at least 10 days after the public meeting (MR 7854,0900, sp 4)
14	Company Enters Proposed Findings		<u>May 2021*</u>	
15	Post Hearing Briefing	Post Hearing Briefing	April <u>May 2021*</u>	As determined by ALJ, if ordered by the Commission. 10 days after close of public hearing comment period. <u>EERA comments on proposed findings and permit conditions.</u>
16	ALJ Report	ALJ Report	May <u>June 2021*</u>	If ordered by the Commission - Findings of fact, conclusions of law, and recommendation. At ALJ's discretion, typically 30 days after the post hearing brief.
17	Exceptions to ALJ Report	Exceptions to ALJ Report	June <u>July 2021*</u>	15 days of filing of the ALJ Report.
18	Commission Decision Meeting	Commission Decision Meeting	July <u>August 2021*</u>	