

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Nancy Lange
Dan Lipschultz
Matthew Schuenger
Katie J. Sieben
John A. Tuma

Chair
Commissioner
Commissioner
Commissioner
Commissioner

Brian M. Meloy
Stinson Leonard Street
150 South Fifth Street, Suite 2300
Minneapolis, MN 55402

SERVICE DATE: July 7, 2017

DOCKET NO. IP-6981/CN-17-306

In the Matter of Petition of Dodge County Wind, LLC for a Certificate of Need for the 200 MW Large Wind Energy Conversion System and an Associated 345 kV Transmission Line in Dodge County, Minnesota

The above-entitled matter was considered by the Commission on June 29, 2017, and the following disposition made:

1. Determined that the following data requirements are not applicable:

- **7849.0260(A)(3) and (C)(6): Line Loss Data**
- **7849.0260(B)(1): Alternatives to the Transmission Line**
- **7849.0260(C)(5): Details Regarding Alternatives**
- **7849.0260(D): Map of Applicant's System**

2. Approved the following exemptions conditioned upon Dodge County Wind providing equivalent data from the purchaser:

- **7849.0240, subp. 2(B): Promotional Activities**
- **7849.0250(B)(2), (3), and (5): Description of Certain Alternatives**
- **7849.0250(C)(7): Effect of Project on Rates System-wide**
- **7849.0300: Consequences of Delay—System**
- **7849.0340: The Alternative of No Facility**

3. Approved the following exemptions as proposed:

- **7849.0250(B)(1) and (4): Description of Certain Alternatives**
- **7849.0250(C)(1)–(6), (8), and (9): Availability of Alternatives to the Facility**
- **7849.0250(D): Map of Applicant's System**
- **7849.0270: Peak Demand and Annual Consumption Forecast**
- **7849.0280: System Capacity**
- **7849.0290: Conservation Programs**
- **7849.0330: Alternatives Involving an LHVTL**

4. **Approved the Applicant's proposed Notice Plan, as modified by the Applicant's reply comments, with the clarification that the Notice Area will encompass the entire width of Dodge County Wind's proposed route alternatives; and**
5. **Granted the Applicant a variance to Minn. R. 7829.2550, subp. 6, to allow implementation of the Notice Plan within two to four weeks prior to filing of the certificate-of-need petition.**

The Commission agrees with and adopts the recommendations of the Department of Commerce, 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

This document can be made available in alternative formats (e.g., large print or audio) by calling 651.296.0406 (voice). Persons with hearing loss or speech disabilities may call us through their preferred Telecommunications Relay Service.



85 7TH PLACE EAST, SUITE 280
SAINT PAUL, MINNESOTA 55101-2198
MN.GOV/COMMERCE
651.539.1600 FAX: 651.539.1574
AN EQUAL OPPORTUNITY EMPLOYER

May 8, 2017

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

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. IP6981/CN-17-306

Dear Mr. Wolf:

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

Application of Dodge County Wind, LLC for a Certificate of Need for the 200 MW Large Wind Energy Conversion System and an associated 345 KV Transmission Line in Dodge County, Minnesota.

The petition was filed on April 20, 2017 by:

Brian M. Meloy
Stinson Leonard Street
150 South Fifth Street, Suite 2300
Minneapolis, MN 55402

The Department recommends that the Minnesota Public Utilities Commission (Commission) **approve the data exemption requests with conditions**. The Department is available to answer any questions that the 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

DOCKET No. IP6981/CN-17-306

I. SUMMARY OF FILING

On April 20, 2017 Dodge County Wind, LLC (DCW or the Company) filed the Company's *Petition for Exemption from Certain Certificate of Need Application Requirements* (Petition).

Also on April 20, 2017 DCW filed a notice plan petition; the notice plan will be addressed in separate comments.

On April 26, 2017 the Minnesota Public Utilities Commission (Commission) issued its *Notice of Comment Period on Certificate of Need Exemption Requests* (Notice). The Notice indicates that two topics are open for comment:

- Should the Commission grant the certificate of need filing requirement exemptions as requested by Dodge County Wind, LLC?
- Are there any other project-related issues or concerns?

A. PROJECT BACKGROUND

DCW is an independent power producer (IPP) and an indirect, wholly-owned subsidiary of NextEra Energy Resources, LLC (NEER). DCW plans to develop, own and operate a 200 MW large wind energy conversion system (Project) in Dodge County, Minnesota. The project will be connected to the electric grid at Southern Minnesota Municipal Power Agency's Byron Substation by an approximately 23-mile 345-kilovolt (kV) transmission line that is proposed to be located in Dodge and Olmsted Counties. The proposed Project is a renewable energy project intended to assist the purchaser in achieving its renewable energy needs.

Note that DCW states that the Company has secured an in-state purchaser for the energy.

B. EXEMPTION REQUESTS

In the Petition, DCW requests exemption from providing data relevant to the Minnesota Rules listed below:

- i. 7849.0240, subp. 2 (B);
- ii. 7849.0250 (B) 1-5;
- iii. 7849.0250 (C) 1 to 6, 8 and 9;
- iv. 7849.0250 (C) 7;
- v. 7849.0250 (D);
- vi. 7849.0260 (A) 3 and (C) 6;
- vii. 7849.0269 (B);
- viii. 7849.0260 (C) 1, 3, 4, 5, 6, 7;
- ix. 7849.0260 (D);
- x. 7849.0270;
- xi. 7849.0280;
- xii. 7849.0290;
- xiii. 7849.0300;
- xiv. 7849.0330; and
- xv. 7849.0340.

DCW notes that the Commission has previously granted exemption requests for these items for IPP projects.

Below are the Comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) regarding the Petition.

II. DEPARTMENT ANALYSIS

A. GOVERNING STATUTE

Minnesota Statutes § 216B.243, subd. 2 states that no large energy facility (LEF) shall be constructed without a certificate of need (CN). At 200 MW the proposed Project qualifies as an LEF. DCW'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 DCW has shown that “the data requirement is unnecessary to determine the need for the proposed facility or may be satisfied by submitting another document.”

B. 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. DCW states that the Company “does not intend to sell electricity directly to end-use customers, and, therefore, has not engaged in any promotional activity.” The Department notes that the Commission has granted this exemption to IPPs because these companies do not have captive customers. However, since DCW has secured a purchaser for the energy the Department recommends that the exemption be granted conditioned upon DCW providing equivalent data from the purchaser.

2. 7849.0250 (B) 1-5: Description of Certain Alternatives

This rule 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).

DCW requests an exemption from information requirements 1, 2, 3 and 5 as they are not applicable and a partial exemption of requirement 4 such that DCW not address non-renewable alternatives. The Department agrees with DCW that an exemption to the extent an alternative cannot address the need for renewable power is reasonable.

DCW notes that the Commission has granted this exemption to IPPs because these companies do not have captive customers. However, since DCW has secured a purchaser for the energy the Department recommends that the exemption be granted conditioned upon DCW providing equivalent data from the purchaser.

Regarding Minnesota Rules 7849.0250 (B) 1, DCW's customer has selected purchased power, thus purchased power is not an alternative, it is the proposal. Thus, an exemption is appropriate.

While the requirements of Minnesota Rules 7849.0250 (B) 2, 3 and 5 are not applicable to DCW, they may be applicable to DCW's customer. Therefore, the Department recommends that the exemption be granted conditioned upon DCW providing equivalent data on renewable alternatives from the purchaser.

3. *7849.0250 (C) 1 to 6, 8 and 9: Availability of Alternatives to the Facility*

This rule requires an 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).

DCW states that:

As explained above, nonrenewable alternatives cannot fulfill the proposed project's purpose of increasing the supply of renewable generation. Therefore, consistent with the request for a partial exemption of Minn. R. 7849.0250 (B) 4 and Commission precedent, Dodge County Wind proposes to address Minn. R. 7849.0250 (C) 1-6, 8 and 9 for renewable alternatives it identifies that could provide electric power at the asserted level of need. [citation omitted]

The Department agrees that the required information—regarding non-renewable alternatives—is not relevant to analysis of alternatives to DCW's proposed Project and that the proposed alternative data will better address the proposed need. Therefore, the Department recommends that the Commission grant the proposed exemption.

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

This rule requires an applicant to provide an estimate the project's effect on rates system-wide and in Minnesota, assuming a test year beginning with the proposed in-service date. DCW requests an exemption because DCW does not operate a system. The Commission

has granted a similar exemption to IPPs because IPPs do not have a system. However, since DCW has secured a purchaser for the energy the Department recommends that the exemption be granted conditioned upon DCW providing equivalent data from the purchaser.

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

This rule requires an applicant to provide a map of the applicant's system. DCW requests an exemption because DCW does not operate a system. As an alternative, DCW proposes to file a map showing the site of DCW's project, including the generation-tie line and its proposed interconnection to the transmission grid. The Department agrees that the proposed alternative map would contain more relevant data. Therefore, the Department recommends that the Commission approve the requested exemption with the provision of DCW's proposed alternative data.

6. *7849.0260 (A) 3 and (C) 6: Line Loss Data*

Minnesota Rules 7849.0010 subpart 13 defines a large electric generating facility (LEGF) as an "electric power generating unit or combination of units as defined by Minnesota Statutes, section 216B.2421, subdivision 2, clause (1)." In turn, Minnesota Statutes 216B.2421 subd. 2 (1) defines a large energy facility as "any electric power generating plant or combination of plants at a single site with a combined capacity of 50,000 kilowatts or more and transmission lines directly associated with the plant that are necessary to interconnect the plant to the transmission system." Therefore, under Minnesota Rules the transmission line is not considered to be a facility separate from the generating unit and does not qualify as a large high voltage transmission line (LHVTL).¹

Minnesota Rules 7849.0260 requires data be provided regarding applications for an LHVTL. Since DCW is not proposing a LHVTL (the transmission line is considered part of the LEGF), none of the data requirements are applicable and an exemption is not needed.

7. *7849.0260 (B) 1: Alternatives to the Transmission Line*

As discussed above, Minnesota Rules 7849.0260 requires data be provided regarding applications for an LHVTL. Since DCW is not proposing a LHVTL, none of the data requirements are applicable and an exemption is not needed.

8. *7849.0260 (C) 5: Details Regarding Alternatives*

As discussed above, Minnesota Rules 7849.0260 requires data be provided regarding applications for an LHVTL. Since DCW is not proposing a LHVTL, none of the data requirements are applicable and an exemption is not needed.

¹ This is consistent with the Commission's October 16, 2008 *Order Granting Exemption, Approving Notice Plan as Modified and Granting Variance* in Docket No. IP6687/CN-08-951 which determined that a notice plan was required for an 11-mile, 230-kV transmission line proposed to interconnect a 201 MW generation project. However, no exemptions regarding Minnesota Rules 7849.0260 were granted and the subsequent CN proceeding did not require information regarding alternatives to the transmission facility.

9. *7849.0260 (D): Map of Applicant's System*

As discussed above, Minnesota Rules 7849.0260 requires data be provided regarding applications for an LHVTL. Since DCW is not proposing a LHVTL, none of the data requirements are applicable and an exemption is not needed.

10. *7849.0270: Peak Demand and Annual Consumption Forecast*

This rule requires an applicant to provide system forecast data. DCW requests an exemption because it does not own or operate a system. Instead, DCW proposes to provide a general overview of the purchaser's system and future renewable resource needs. The Department agrees that DCW's proposed alternative data is relevant. Therefore, the Department recommends that the Commission approve the requested exemption and require DCW to provide data regarding the purchaser's system and future renewable resource needs.

11. *7849.0280: System Capacity*

This rule requires an applicant to provide information regarding the ability of its existing system to meet the demand for electrical energy forecast in response to part 7849.0270. Again, DCW does not have a system but proposes to provide a general overview of the purchaser's system and future renewable resource needs. The Department recommends that the Commission approve the requested exemption and require DCW to provide data regarding the purchaser's system and future renewable resource needs.

12. *7849.0290: Conservation Programs*

This rule requires an applicant to provide information related to conservation programs. DCW requests an exemption because:

- DCW is not a utility and does not have a system or retail customers to implement conservation; and
- only an increase in energy from eligible energy technologies will enable the purchaser to meet Minnesota's renewable energy obligations.

The Department agrees that conservation cannot meet a need for renewable energy and recommends that the Commission approve the requested exemption.

13. *7849.0300: Consequences of Delay—System*

This rule requires an applicant to provide information regarding anticipated consequences to its system, neighboring systems, and the power pool should the proposed facility be delayed one, two, and three years, or postponed indefinitely. DCW requests an exemption because the Company does not have a system. The Department recommends that the

Commission approve the requested exemption and require DCW to provide data regarding the consequences of delay on the purchaser's system and future renewable resource needs.

14. 7849.0330: Alternative Involving an LHVTL

This rule requires an applicant to provide data for each alternative that would involve construction of an LHVTL. Regarding this requirement DCW states that "other transmission facilities are not true alternatives to the proposed Dodge County generation-tie line, since the purpose of the generation-tie line is to deliver the output from the facility to increase the supply of renewable energy to the purchaser to meet its renewable energy obligations." The Department agrees with DCW's analysis and recommends that the Commission grant the proposed exemption.

15. 7849.0340: The Alternative of No Facility

This rule requires an applicant to provide information regarding the impact of the alternative of no facility on the existing system. DCW requests an exemption because it does not have a system. The Department recommends that the Commission approve the requested exemption and require DCW to provide data regarding the no-build alternative on the purchaser's system and future renewable resource needs.

III. DEPARTMENT RECOMMENDATION

The Department recommends that the Commission determine that the following data requirements are not applicable:

- 7849.0260 (A) 3 and (C) 6: Line Loss Data;
- 7849.0260 (B) 1: Alternatives to the Transmission Line;
- 7849.0260 (C) 5: Details Regarding Alternatives; and
- 7849.0260 (D): Map of Applicant's System.

The Department recommends that the Commission approve the following exemptions conditioned upon DCW providing equivalent data from the purchaser:

- 7849.0240, subp. 2 (B): Promotional Activities;
- 7849.0250 (B) 2, 3, and 5: Description of Certain Alternatives;
- 7849.0250 (C) 7: Effect of Project on Rates System-wide;
- 7849.0300: Consequences of Delay—System; and
- 7849.0340: The Alternative of No Facility.

The Department recommends that the Commission approve the following exemptions as proposed:

- 7849.0250 (B) 1 and 4: Description of Certain Alternatives;
- 7849.0250 (C) 1 to 6, 8 and 9: Availability of Alternatives to the Facility;
- 7849.0250 (D): Map of Applicant's System;
- 7849.0270: Peak Demand and Annual Consumption Forecast;
- 7849.0280: System Capacity;
- 7849.0290: Conservation Programs; and
- 7849.0330: Alternatives Involving an LHVTL.

/lt



85 7TH PLACE EAST, SUITE 280
SAINT PAUL, MINNESOTA 55101-2198
MN.GOV/COMMERCE
651.539.1600 FAX: 651.539.1574
AN EQUAL OPPORTUNITY EMPLOYER

May 10, 2017

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. IP6981/CN-17-306

Dear Mr. Wolf:

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

Notice Plan Petition for the Application of Dodge County Wind LLC for a Certificate of Need for the 200 MW Large Wind Energy Conversion System and an associated 345 kV Transmission Line in Dodge County, Minnesota.

The Petition was filed on behalf of Dodge County Wind LLC on April 20, 2017 by:

Brian M. Meloy
Stinson Leonard Street
150 South Fifth Street, Suite 2300
Minneapolis, MN 55402

The Department requests that DCW fully justify its request to forgo notice publication in a newspaper of general circulation throughout the state, as required by Minnesota Rules 7829.2500, subp. 5. The Department is available to answer any questions the Commission may have.

Sincerely,

/s/ BEN KAMARA
Financial Analyst

BK/lt
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES

DOCKET No. IP6981/CN-17-306

I. INTRODUCTION

On April 20, 2017, Dodge County Wind LLC (DCW or the Applicant) filed its Notice Plan Petition for the Application of Dodge County Wind LLC for a Certificate of Need for the 200-MW Large Wind Energy Conversion System and an associated 345-kilovolt (kV) Transmission Line in Dodge County, Minnesota (Notice Petition). The Notice Petition provides DCW's proposed notice plan to communicate its intent to construct a 345-kV generation-tie transmission line that delivers energy from a new substation associated with a proposed 200-MW Dodge County Wind Facility to the Southern Minnesota Municipal Power Agency's Byron Substation. According to DCW, a short portion of the 23-mile line will extend into Olmsted County. The Notice Petition includes a draft notice for landowners and residents, a draft notice for governmental entities, and a draft newspaper notice.

On April 24, 2017, DCW filed an Errata to the Notice Petition in order to insert the dates comments on the Notice Plan are due pursuant to Minnesota Rules 7829.2550, subp. 5 that the Applicant omitted in its original filing.

DCW also filed a *Petition for Exemption from Certain Certificate of Need Application Requirements* pertaining to a future Certificate of Need petition for the 200 MW Dodge County Wind facility. The exemption petition has been addressed in separate comments.

Below are the comments of the Minnesota Department of Commerce, Division of Energy Resources, Energy Regulation and Planning (Department) on the Notice Petition.

II. DEPARTMENT ANALYSIS

Minnesota Rules, part 7829.2550 state, in part:

Three months before filing a certificate of need application for a high-voltage transmission line as defined by Minnesota Statutes, section 216B.2421, the applicant shall file a proposed plan for providing notice to all persons reasonably likely to be affected by the proposed line.

Minnesota Statutes § 216B.2421 includes in its definition of a Large Energy Facility (LEF):

- (2) any high-voltage transmission line with a capacity of 200 kilovolts or more and greater than 1,500 feet in length;
- (3) any high-voltage transmission line with a capacity of 100 kilovolts or more with more than ten miles of its length in Minnesota or that crosses a state line;

Given that the Dodge County Wind facility is expected to require a 345-kV generation-tie line approximately 23 miles long, this associated transmission line falls within the definition of “large energy facility” and, therefore, is considered a high-voltage transmission line for which a notice plan filing is required. The Department concludes that a notice plan is required regardless of whether a certificate of need for the associated transmission line is requested through a certificate of need application for a large generating plant (as an associated facility), or whether it is requested separately.

A. TYPES OF NOTICE

Minnesota Rules, part 7829.2550, subp. 3, requires types of notice as follows:

- direct mail notice, based on county tax assessment rolls, to landowners reasonably likely to be affected by the proposed transmission line;
- direct mail notice to all mailing addresses within the area reasonably likely to be affected by the proposed transmission line;
- direct mail notice to tribal governments and to the governments of towns, statutory cities, home rule charter cities, and counties whose jurisdictions are reasonably likely to be affected by the proposed transmission line; and
- newspaper notice to members of the public in areas reasonably likely to be affected by the proposed transmission line.

Regarding landowner notice, the Applicant proposed to provide notice to landowners in the Notice Area shown in Exhibit B of the petition. The potential routes within the Notice Plan are not identified. The Department notes that Minnesota Rules, part 7850.1000 specifies that a transmission line route may have a variable width of up to 1.25 miles within which a right-of-way can be located. Therefore, the Department recommends that the Commission

require DCW to provide direct mail notice to landowners within the Notice Area and within each proposed 1.25-mile wide proposed transmission line route.

DCW stated that it will obtain names and addresses from county tax assessment rolls record information. Regarding the notice to mailing addresses, the Applicant proposed to send a direct mail notice to every identified mailing address within Notice based on the mailing lists available from the U.S. Postal Service, from the records of County Auditors' offices and GIS data. The Department concludes that this is reasonable.

Regarding governmental notice, the Department reviewed the Applicant's list of government officials proposed to receive notice on Exhibit E of its Petition. The list includes a State Representative, a State Senator, 3 members of the US Congress and Local County, Township and City officials. The list appears to be complete, but should be expanded should additional local governments be included due to the 1.25-mile route requirement discussed above expand the Notice Area.

In regards to Tribal Government notification, the Applicant stated that, "There are no Tribe Governments within the Notice Area or nearby the Project."¹ . Regarding newspaper notice, the Applicants listed three local newspapers to the newspaper notice list. The Department concludes that the Applicants' proposed plan for newspaper notice is reasonable.

B. CONTENT OF NOTICE

Minnesota Rules, part 7829.2550, subp. 4 require the notices to provide the following information:

- a map showing the end points of the line and existing transmission facilities in the area;
- a description of general right-of-way requirements for a line of the size and voltage proposed and a statement that the applicant intends to acquire property rights for the right-of-way that the proposed line will require;
- a notice that the line cannot be constructed unless the Minnesota Public Utilities Commission (Commission) certifies that it is needed;
- the Commission's mailing address, telephone number, and Web site;
- if the applicant is a utility subject to chapter 7848, the address of the Web site on which the utility applicant will post or has posted its biennial transmission projects report required under that chapter;
- a statement that the Environmental Quality Board² will be preparing an environmental report on each high-voltage transmission line for which certification is requested;

¹ Petition, Page 3.

² The Department notes that while the statutes have changed regarding routing authority and location of the staff preparing the environmental report, the Commission's rules have not yet been updated to reflect these changes. See Docket No. E,ET,IP999/R-12-1246.

- a brief explanation of how to get on the mailing list for the Environmental Quality Board's proceeding; and
- a statement that requests for certification of high-voltage transmission lines are governed by Minnesota law, including specifically chapters 4410 and 7849, and Minnesota Statutes, section 216B.243.

The Department reviewed the attached notices, letters and maps provided by the Applicant and concludes that the Applicant's proposal for the resident/landowner notice, governmental notice, and newspaper notice generally contains the required information.

C. NOTICE TIMING

Minnesota Rules, part 7829.2550, subp. 6, requires the applicant to implement the Notice Plan within 30 days of its approval by the Commission. However, the Applicant requested that the Commission modify the "Notice Plan implementation requirement to allow for the notice to more closely coincide with the submittal of Certificate of Need application." DCW requested that the Commission direct the notices identified in the Notice Plan to occur within two to four weeks before the Certificate of Need (CN) filing. The Commission has ordered a similar approach, typically a 30-day window, in several dockets.³

Minnesota Rules, part 7829.3200 governs such variance requests and establishes the following criteria:

1. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
2. granting the variance would not adversely affect the public interest; and
3. granting the variance would not conflict with standards imposed by law.

The Department concludes that enforcement of the rule would burden all parties involved by separating the provision of notice from the start of the proceeding. Granting the variance would not adversely affect the public interest since the Applicant's proposal would more closely tie the implementation of the Notice Plan to the beginning of the CN proceeding. The Department is not aware that the variance would conflict with standards imposed by law. Therefore, the Department recommends that the Commission approve the Applicant's request to implement the Notice Plan within two to four weeks prior to the filing of the CN petition.

³ Examples include:

- November 3, 2006 in Docket No. E002, ET2, et al/CN-08-1115;
- November 29, 2007 in Docket No. E017, E015, ET6/CN-07-1222;
- November 12, 2008 in Docket No. E002/CN-08-992;
- January 26, 2010 in Docket No. E002/CN-09-1390; and
- August 17, 2010 in Docket No. E002/CN-10-694.
- February 4, 2013 in Docket No. E002/CN-12-1235
- December 8, 2014 in Docket No. E015/CN-14-787
- January 30, 2015 in Docket No. E015/CN-14-853

D. NEWSPAPER NOTIFICATION REQUIREMENTS

In addition to the notice provided pursuant to a Notice Plan, Minnesota Rules, part 7829.2500, subp. 5, requires the applicant to publish newspaper notice of the Certificate of Need filing in newspapers of general circulation throughout the state. The Applicant has requested a variance to this rule due to its request that the Applicant implement the Notice Plan no more than 60 days before the CN is filed,⁴ and based on the fact that the project will be located only in Dodge and a small portion of Olmstead counties. It appears that the Applicant is requesting a variance to Minnesota Rules, part 7829.2500, subp. 5 to both remove the requirement to publish notice in a newspaper of general circulation throughout the state and to remove the requirement to publish that notice at the time of the CN application.

In its filing, the Applicant indicated that it intends to publish a notice in the three local papers: Dodge County Independent, Dodge Center Star Herald and The Byron Review.⁵ As noted above, DCW has requested approval to implement the Notice Plan between 2 and 4 weeks prior to filing the CN application.⁶

The Department considers complete and thorough public notice to be crucial in ensuring that the public is aware of, can participate in, and affect the outcome of a CN proceeding. The Department requests that DCW provide support for its variance request to forego publishing notice in a newspaper of general circulation. Typically, large energy facilities have local impacts, yet the rule requires broad newspaper notice. It is not clear why the DCW project justifies only local newspaper notice.

However, should the Commission approve DCW's request to vary Minnesota Rules, part 7829.2550, subp. 6 resulting in Notice Plan implementation between 2 and 4 weeks prior to filing the CN application, the Department concludes that enforcement of Minnesota Rules 7829.2500, subp. 5 would impose a burden on the applicant by requiring duplicative notice. Further, granting a variance to Minnesota Rules 7829.2500, subp. 5 would not adversely affect the public interest because timely newspaper notice will be provided. Finally, the Department is not aware that the variance would conflict with standards imposed by law.

⁴ Petition, page 4.

⁵ Petition, page 3.

⁶ Petition, page 4.

III. DEPARTMENT RECOMMENDATIONS

The Department requests that DCW fully justify its request to forgo notice publication in a newspaper of general circulation throughout the state, as required by Minnesota Rules 7829.2500, subp. 5.

Upon receiving such justification, the Department expects to recommend that the Commission approve the Applicant's proposed Notice Plan, with the clarification that the Notice Area will encompass the entire width of DCW's proposed route alternatives.

Further, the Department recommends that the Commission grant the Applicants a variance to Minnesota Rules 7829.2550, subp. 6 to allow implementation of the Notice Plan within 2 to 4 weeks prior to the filing of the CN petition.

/lt

June 1, 2017

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101

RE: Response Comments of the Minnesota Department of Commerce, Division of Energy Resources to Dodge County Wind, LLC's Reply Comments on the Notice Plan Petition for the Application of Dodge County Wind, LLC for Certificate of Need for the 200-MW Large Wind Energy conversion System and an Associated 345-kV Transmission Line in Dodge County, Minnesota.
Docket No. IP6981/CN-17-306

Dear Mr. Wolf:

On May 16, 2017, Dodge County Wind, LLC (Applicant or DCW) filed reply comments to the Department's May 10, 2017 comments on the Notice Plan Petition for the Application of Dodge County Wind LLC for a Certificate of Need for the 200-MW Large Wind Energy Conversion System and an associated 345-kV Transmission Line in Dodge County, Minnesota. The Applicant agreed to the Department's recommendations and responded to the Department's request that DCW fully justify its request to forgo notice publication in newspaper of general circulation throughout the state, as required by Minnesota Rules 7829.2500, subp. 5. In its reply comments, the Applicant stated that this requirement would be satisfied by publishing a notice in the *Star Tribune*.

The Department considers complete and thorough public notice to be crucial in ensuring that the public is aware of, can participate in, and affect the outcome of a CN proceeding. With respect to this case, Dodge County Wind has indicated that it would publish the notice in a newspaper of general circulation *i.e.*, *Star Tribune*. Therefore, the Department recommends the following:

- approve the Applicant's proposed Notice Plan, as modified by the Applicant's reply comments, with the clarification that the Notice Area will encompass the entire width of DCW's proposed route alternatives; and
- grant the Applicant a variance to Minnesota Rules 7829.2550, subp. 6 to allow implementation of the Notice Plan within 2 to 4 weeks prior to filing of the CN petition.

The Department is available to answer any questions that the Commission may have.

Sincerely,

/s/ BEN KAMARA
Financial Analyst

BK/lt

CERTIFICATE OF SERVICE

I, Jamie Eschbach, hereby certify that I have this day, served a true and correct copy of the following document to all persons at the addresses indicated below or on the attached list by electronic filing, electronic mail, courier, interoffice mail or by depositing the same enveloped with postage paid in the United States mail at St. Paul, Minnesota.

Minnesota Public Utilities Commission ORDER

Docket Numbers: **IP-6981/CN-17-306**

Dated this **7th** day of **July, 2017**

/s/ Jamie R Eschbach

Print

Close

Service List Member Information

Electronic Service Member(s)

Last Name	First Name	Email	Company Name	Delivery Method	View Trade Secret
Anderson	Julia	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	Electronic Service	Yes
Bissonnette	Michelle F.	michelle.bissonnette@hdrinc.com	HDR Engineering, Inc.	Electronic Service	No
Brown	B. Andrew	brown.andrew@dorsey.com	Dorsey & Whitney LLP	Electronic Service	No
Cook	Bill	bcook@rpu.org	Rochester Public Utilities	Electronic Service	No
Crane	John	johncranefishing@gmail.com	Fishing	Electronic Service	No
Crocker	George	gwillc@nawo.org	North American Water Office	Electronic Service	No
Cronin	Carl	Regulatory.records@xcelenergy.com	Xcel Energy	Electronic Service	No
Dobson	Ian	Residential.Utilities@ag.state.mn.us	Office of the Attorney General-RUD	Electronic Service	Yes
Drawz	John E.	jdrawz@fredlaw.com	Fredrikson & Byron, P.A.	Electronic Service	No
Dutcher	Cory	cory.dutcher@ge.com	GE Power and Water	Electronic Service	No
Fairman	Kate	kate.frantz@state.mn.us	Department of Natural Resources	Electronic Service	No
Fazio	Emma	emma.fazio@stoel.com	Stoel Rives LLP	Electronic Service	No
Ferguson	Sharon	sharon.ferguson@state.mn.us	Department of Commerce	Electronic Service	No
Fiedler	Annette	phydev@swrdc.org	Southwest Regional Development Comm.	Electronic Service	No
Gebhardt	Karen A	kageb1@gvtel.com	N/A	Electronic Service	No
Germundson	Travis	travis.germundson@state.mn.us	N/A	Electronic Service	No
Harris	Jason	Jason.Harris@nee.com	Dodge County Wind, LLC	Electronic Service	No
Healy	Charles	chuckh@electrotech-inc.com	ElectroTech, Inc	Electronic Service	No
Herring	Valerie	vherring@briggs.com	Briggs and Morgan, P.A.	Electronic Service	No
Howe	Kari	kari.howe@state.mn.us	DEED	Electronic Service	No
Johnson	Scott	Scott.Johnson@ci.medina.mn.us	City of Medina	Electronic Service	No
King	Bruce	bruce@ranww.org	Realtors, Association of Northwestern WI	Electronic Service	No
Kotch	Stacy	Stacy.Kotch@state.mn.us	MINNESOTA DEPARTMENT OF TRANSPORTATION	Electronic Service	No
Kromar	Karen	karen.kromar@state.mn.us	MN Pollution Control Agency	Electronic Service	No
Lindquist	Kim	kim.lindquist@ci.rosemount.mn.us	N/A	Electronic Service	No
Maccabee	Paula	Pmaccabee@justchangelaw.com	Just Change Law Offices	Electronic Service	No
Meloy	Brian	brian.meloy@stinson.com	Stinson,Leonard, Street LLP	Electronic Service	No
Mixon	Kevin	kevin.mixon@state.mn.us	Department of Natural Resources	Electronic Service	No
Moratzka	Andrew	andrew.moratzka@stoel.com	Stoel Rives LLP	Electronic Service	No
Moynihan	Debra	debra.moynihan@state.mn.us	MN Department of Transportation	Electronic Service	No
Murphy	Brian J	Brian.J.Murphy@nee.com	Nextera Energy Resources, LLC	Electronic Service	No
Nyhus	Steven	swnyhus@flaherty-hood.com	Flaherty & Hood PA	Electronic Service	No
Overland	Carol A.	overland@legalectric.org	Legaelectric - Overland Law Office	Electronic Service	No
Patton	Bob	bob.patton@state.mn.us	MN Department of Agriculture	Electronic Service	No
Peterson	Kevin	kjp@ibew160.org	IBEW Local 160	Electronic Service	No
Piner	Angela	angela.piner@hdrinc.com	HDR, Inc.	Electronic Service	No
Rebman	Larry	larryemls@hotmail.com	EMLS, Inc	Electronic Service	No
Rheude	Margaret	Margaret_Rheude@fws.gov	U.S. Fish and Wildlife Service	Electronic Service	No
Schmitz	Rachelle	rrneewel@yahoo.com	N/A	Electronic Service	No
Schmitz	Tom	tschmitz_rph@yahoo.com	N/A	Electronic Service	No
Schumacher	Rod	rod.schumacher@is-grp.com	I&S Group	Electronic Service	No
Shaffer	David	david.shaffer@startribune.com	N/A	Electronic Service	No
Slukich	Tom	tom@nationalconductor.com	National Conductor Constructors	Electronic Service	No
Sokolski	Adam	adam.sokolski@iberdrolaren.com	Iberdrola Renewables	Electronic Service	No
Strohfus	Mark	mstrohfus@greenergy.com	Great River Energy	Electronic Service	No
Strohm	Carl	cjsmg@sbcglobal.net	SBC Global	Electronic Service	No
Swafford	Tom	tswafford@umsi.us	Utility Mapping Services, Inc	Electronic Service	No

Last Name	First Name	Email	Company Name	Delivery Method	View Trade Secret
Swanson	Eric	eswanson@winthrop.com	Winthrop & Weinstine	Electronic Service	No
Tadych	Todd	ttadych@atcllc.com	American Transmission Company LLC	Electronic Service	No
Thompson	Steve	stevet@cmpasgroup.org	Central Minnesota Municipal Power Agency	Electronic Service	No
Warzecha	Cynthia	cynthia.warzecha@state.mn.us	Minnesota Department of Natural Resources	Electronic Service	No
Wolf	Daniel P	dan.wolf@state.mn.us	Public Utilities Commission	Electronic Service	Yes
van Lingen	Hans	hans.vanlingen@enel.com	Enel Green Power North America	Electronic Service	No

Paper Service Member(s)

Last Name	First Name	Company Name	Address	Delivery Method	View Trade Secret
Davis	Thomas	-	1161 50th Ave, Sherburn, MN-56171	Paper Service	No
Eide Tollefson	Kristen	R-CURE	28477 N Lake Ave, Frontenac, MN-55026-1044	Paper Service	No
Mueller	Colleen	N/A	22186 State Hwy 4, Paynesville, MN-56362	Paper Service	No
Steinrueck	Matt	Clean Water Action	330 Second Ave S Suite 420, Minneapolis, MN-55401	Paper Service	No