

November 16 2017

Daniel P. Wolf, Executive Secretary
Minnesota Public Utilities Commission
127 7th Place East, Suite 350
St. Paul, MN 55101-2147

Re: Site Permit Application Completeness
260 MW Nobles 2 Wind Project
Docket No. IP-6961/WS-17-597

Dear Mr. Wolf:

Attached are the review and comments of the Minnesota Department of Commerce Energy Environmental Review and Analysis (EERA) staff in the following matter:

The Application of Nobles 2 Power Partners, LLC for a Large Wind Energy Conversation System Site Permit for the up to 260 MW Nobles 2 Wind Project and Associated Facilities in Nobles County

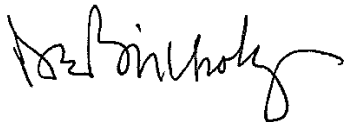
Nobles 2 Power Partners, LLC has submitted a Site Permit Application pursuant to Minnesota Statute 216F and Minnesota Rule 7854 to construct and operate the Nobles 2 Wind Project, an LWECS of up to 260 MW in Nobles County approximately 11 miles north of Worthington.

This filing was made on October 13, 2017, by:

Jeremy P. Duehr
Fredrikson & Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, Minnesota 55402

EERA recommends accepting the Site Permit Application as complete under Minnesota Rule 7854.0600. EERA also recommends the Commission make a determination concerning the Applicant's use of Trade Secret data. EERA staff is available to answer any questions the Commission may have.

Sincerely,



David Birkholz, Environmental Review Manager
Energy Environmental Review and Analysis
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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS AND RECOMMENDATIONS OF THE MINNESOTA DEPARTMENT OF COMMERCE ENERGY ENVIRONMENTAL REVIEW AND ANALYSIS

DOCKET NO. IP-6964/WS-17-597

Date November 16, 2017
EERA Staff..... David Birkholz (651) 539-1838

In the Matter of The Application of Nobles 2 Power Partners, LLC for a Large Wind Energy Conversation System Site Permit for the up to 260 MW Nobles 2 Wind Project and Associated Facilities in Nobles County

Issues Addressed: *These comments and recommendations address:*

1. *Whether the Commission should find the site application complete;*
2. *Whether there are contested issues of fact; and*
3. *How the process might best proceed.*

Additional documents and information can be found at

<http://mn.gov/commerce/energyfacilities/Docket.html?ld=34736> or on eDockets at
<http://www.edockets.state.mn.us/EFiling/search.jsp> (Year 17, Number 597).

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

Introduction and Background

Nobles 2 Power Partners, LLC (Applicant or Nobles 2) filed an Application¹ with the Public Utilities Commission (Commission) for a Large Wind Energy Conversion System (LWECS) Site Permit on October 13, 2017, to build the Nobles 2 Wind Project (Project) in Nobles County.

Nobles 2 Power Partners, LLC is a wholly-owned subsidiary of Tenaska Wind Holdings II, LLC, an affiliate of Tenaska, Inc. in Omaha, Nebraska. Tenaska, Inc. and its affiliates have developed 10,000 MW of natural gas-fueled and renewable power generating facilities and has wind development projects across the Midwest.

The Applicant has a signed Power Purchase Agreement with Minnesota Power for 250 MW and filed a Certificate of Need (CN) Application with the Commission on October 13, 2017. The CN process and application for the Project can be reviewed in eDocket number IP6964/CN-16-289.

¹ Site Permit Application for a Large Wind Energy Conversion System (Application), Nobles 2 Power Partners, LLC, October 13, 2017, mn.gov/commerce/energyfacilities/resource.html?ld=34754

Project Location

The Project is located approximately 11 miles northwest of Worthington entirely in Nobles County. Portions of the Project are located in Bloom, Larkin, Leota, Lismore, Summit Lake and Wilmont townships. The proposed Project is located in a portion of the state near the Buffalo Ridge that has seen extensive development of LWECs over the past 20 years.

Project Description

The Project Boundary encompasses approximately 42,547 acres, of which approximately 30,356 acres are currently leased for the Project. The Project for which a permit is being requested includes:

1. A wind turbine layout consisting of 65 to 82 turbines, depending on turbine specifications; the application describes the possible use of the Vestas V136-3.6 MW wind turbine generator as the primary model for the Project. Other models under consideration are the Vestas V136-3.45 MW, V136-4.0 MW or V136-4.2 MW turbines. These turbine model variants have siting requirements that are similar to the V136-3.6 MW. The layout also includes 10 to 21 Vestas V110-2.0 MW wind turbines, due to PTC requirements; and
2. Associated facilities, including gravel access roads, underground electrical collection system and communication lines, temporary and permanent meteorological towers, a Project substation facility and an interconnection facility, a temporary staging/laydown construction area, and an operations and maintenance (O&M) building.

The Applicant's goal is to commence construction of the Project on a schedule to achieve commercial operation by the end of 2019.

Regulatory Process and Procedures

A site permit from the Commission is required to construct an LWECs, which is any combination of wind turbines and associated facilities with the capacity to generate five megawatts or more of electricity. This requirement became law in 1995. The Minnesota Wind Siting Act is found at Minnesota Statutes Chapter 216F. The rules to implement the permitting requirements for LWECs are in Minn. Rule 7854.

Application Acceptance

Application acceptance is guided by Minnesota Rule 7854.0600. The Commission may elect to accept, conditionally accept, or reject the Application. If the Commission conditionally accepts or rejects an application, the Commission must advise the Applicant of the deficiencies in the application and the manner in which the deficiencies can be addressed.

Within 15 days of LWECs site permit application acceptance, the Applicant is required to provide notice of application acceptance. In addition to publishing this notice in a newspaper of general circulation in each county, the notice is distributed to the county board, each city council and each township board in each county where the LWECs is proposed to be located. This notice is also posted on eDockets and on the Department of Commerce Energy Environmental Review and Analysis (EERA) website. In practice this notice has been developed by the Applicant with assistance from EERA staff to ensure that the notice meets the requirements and intent of Minnesota Rule 7854.0600.

As a part of the notice requirements of Minnesota Rule 7854.0600, the Applicant must provide a copy of the accepted Application to each landowner within the site. The Applicant is also required to distribute the accepted Application to the Minnesota Historical Society, the regional development commission(s) within which the LWECS is proposed to be located, the auditor of each county, and the clerk of each city and township in which the LWECS is proposed to be located. The auditors and clerks are to retain the Application and make it available for public inspection on request. In practice, the Applicant also provides a copy of the Application to landowners adjacent the Project. The Applicant is responsible for maintaining the Application distribution list.

As in previous projects, EERA staff will also distribute copies of the Application to technical representatives from state agencies (e.g., Pollution Control Agency, Department of Natural Resources, Department of Transportation, Board of Water and Soil Resources, Department of Agriculture, and Department of Health) that may have permitting or review authority over the project and establish a comment period to allow for public and agency technical analysis and input into whether a draft site permit should be issued.

Preliminary Determination on Draft Site Permit

Minnesota Rule 7854.0800 states, “Within 45 days after acceptance of the application by the Commission, the Commission shall make a preliminary determination whether a permit may be issued or should be denied. If the preliminary determination is to issue a permit, the Commission shall prepare a draft site permit for the project. The draft site permit must identify the permittee, the proposed LWECS, and proposed permit conditions.”

Issuing a draft site permit does not confer an authority to construct an LWECS. The Commission may change, amend or modify the draft site permit in any respect before final issuance or may deny the site permit at a later date.

EERA Staff Analysis and Comments

The Application has been reviewed by EERA staff pursuant to the requirements of Minnesota Rule 7854 (Wind Siting Rules). The Application provides the information required by Minnesota Rule 7854.0500 in a format that all members of the public can access.

The Applicant developed the Application with the assistance of the EERA guidance document² for LWECS permits. This guidance for site permitting provides applicants and preparers of LWECS applications with information on how to prepare a complete site permit application, including information on the permitting process, pre-application consultation, current policies, guidelines and expectations as to necessary study standards and how to submit an application. While this document is somewhat dated and in the process of review, it is still a useful tool, especially for developers like Tenaska who are new to permitting in the state.

² Application Guidance for Site Permitting of Large Wind Energy Conversion Systems in Minnesota, Department of Commerce EERA, August 5, 2010.

The Applicant submitted a draft Application for review on August 9, 2017. EERA reviewed the document and met with and provided comments and recommendations to the Applicant on September 17, 2017. The Applicant edited and supplemented the Application following EERA's initial review before making their official filing on October 13, 2017. EERA finds the updated Application generally addresses the EERA comments and recommendations provided to the Applicant.

Trade Secret Data

During the review of the draft, EERA advised the Applicant against submitting a public version of the Application that withheld information on Project costs and energy production projections. These data have been public information in prior LWECS applications, with the sole exception of the recent Red Pine Application.³

For Project costs, applicants generally provide a rough estimate, or a range in which the costs of constructing and operating the Project would likely fall. These data are not specific as to the cost of turbines, land acquisition rights or actual construction; all of which might be consider privileged information that may be an advantage to a competitor. The general estimate provides the local public with a fair sense of the economic impact for the local economy. In this case in particular, Tenaska already published a general estimate in a flyer (see attached) posted on its website.⁴ Excluding updated information from the public version of the Application could be confusing or misleading to the public.

Similarly, the energy production estimates required in wind permit applications are general pre-construction estimates, not actual production data. Excising energy production estimates from the public version of the Application may deprive the public of another fair sense of the local economic impact. Applications, such as this one, typically claim a positive contribution to local governments and economies. Without the projections, the public is deprived of any sense of the real value of that contribution, as tax payments to local governments are based on energy production. Those rough estimates would not likely constitute protected data, as summaries of actual yearly energy production are available publically.

EERA Conclusions and Recommendation

Application Completeness

EERA concludes that the Application provides complete information per Minnesota Rule 7854.0500 sufficient to begin the Site Permit review process. However EERA believes the use of trade secret designations in the Application create confusion and make a significant break with the Commission standard. EERA staff is requesting that the Commission review whether the trade secret data claimed by the Applicant should be protected, or whether disclosure is in the best interest of the public. A determination would clarify for any future applications as well, and determine whether or not Red Pine sets a precedent.

³ Site Permit Application for a Large Wind Energy Conversion System, Red Pine Wind Project, LLC, September 30, 2016, mn.gov/commerce/energyfacilities/resource.html?Id=34595

⁴ Downloaded by EERA from Tenska.com on August 25, 2017.

Contested Issues of Fact

EERA staff is not aware at this time of any contested issues of fact with respect to the information provided in the Site Permit Application. However, issues may be identified during the public and agency comment period, and if so these issues will be addressed within the project docket.

Referral for Contest Case Proceedings

At this time EERA staff does not know of any controversial issues or sensitive resource impacts associated with the Project; and no individual has requested a contested case hearing. EERA staff recommends that the Commission delay the decision on whether to refer the project to the OAH for a contested case hearing until the draft Site Permit stage. Development of the draft Site Permit will provide insight into the potential Project impacts, and clarity as to the appropriate Site Permit conditions to be included. Depending on the outcome of that process, the Commission can determine whether a contested case hearing will aid in making their final determination on the Site Permit.

Joint Process of the Site Permit Application and the Certificate of Need Application

EERA staff recommends that the Site Permit Application and Certificate of Need Application be processed jointly. Combining permit and need procedures is not anticipated to restrict or impede adequate environmental review for all issues associated with the Project. In fact, review may be enhanced by joining the Draft Permit public meeting and the CN scoping meeting. Additionally, a joint process is likely to be more efficient and possibly generate further public interest.

Rule Variance – Draft Permit Issuance

EERA is requesting a rule variance, that the Commission vary the procedural requirements of Minn. Rule 7854.0800, which requires a preliminary determination on whether to issue a Site Permit within 45 days of application acceptance. EERA believes additional time is appropriate to accommodate an EERA public informational meeting, and to allow interested persons time to comment on the application and issues to be considered in development of a draft Site Permit for the Project.

Minnesota Rules, part 7829.3200 allows the Commission to grant a variance to its rules when it determines the following three conditions are met:

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.

EERA staff believes the conditions for a variance are met in this case, and over the past several years the Commission has found this variance is appropriate, beneficial, and in compliance with the three-factor variance test.

First, the enforcement of the rule would impose an excessive burden on EERA staff because of the short time available between application acceptance and the time a draft Site Permit must be addressed by the Commission. EERA staff practice over the past few years has been to include an additional comment period to allow for public and governmental agency input on the site permit application prior to the Commission's preliminary determination on whether a site permit may be issued. EERA staff believes that 45 days is inadequate to allow a reasonable comment period, review any comments received, and, where appropriate, incorporate comments into the draft Site Permit for Commission consideration.

Second, granting the variance will not adversely affect the public interest. Granting the variance would better serve the public interest by allowing adequate opportunity for interested persons to review and comment on the application.

Third, EERA staff does not believe granting the variance would conflict with standards imposed by law.

EERA staff is not aware of any opposition to the draft Site Permit variance being requested, and the variance has been a typical practice in the most recent wind dockets under consideration by the Commission.

FACT SHEET

Nobles 2 Wind Project

(Wilmont, Minnesota)



Tenaska and PRC Wind are known for being good business neighbors. A wind project will bring significant benefits to the region, including jobs, tax revenue and a boost to the regional economy.

Tenaska, a respected energy company, is working with Minnesota developer PRC Wind to develop a wind-powered electric generation project near Wilmont in Nobles County, Minnesota. Able to produce 250 megawatts (MW) of renewable power, this facility will bring construction and operation jobs, tax revenue and other economic benefits to the community.

Why Work With Tenaska?

Tenaska strives to be a good and responsible neighbor in communities where it does business. The company cultivates long-term, mutually beneficial relationships with local leaders and residents built on respect, value and trust. Tenaska depends on those good working relationships and open dialogue with local leaders to help maximize the benefits to the community while ensuring its plants remain competitive businesses and stable employers.

As part of its commitment to being a good neighbor, Tenaska provides economic benefits and contributes to community-building programs in locations where its plants operate. The company has awarded more than \$600,000 in college scholarships to date.

Land Use

Wind projects optimize land use. A small portion – less than 2 to 3 percent of the overall land – is needed for siting of wind turbines and access roads. The remainder can continue to be used in its current state, such as for farming and grazing.

At the end of the wind turbines' useful life, the project may be repowered or the turbines will be removed and the site will be reclaimed.

Community Benefits

Construction of this wind-generation facility in Nobles County is expected to:

- Boost the local economy, with a total estimated cost of approximately \$400 million;
- Result in increased tax revenue to local units of government;
- Diversify land use and provide stable income to land owners through lease payments;
- Create up to 230 jobs during peak construction and up to 20 well-paying, full-time jobs during operation; and
- Offer opportunities for local businesses to provide goods and services to the project.

There will be additional “trickle down” benefits during construction and operation, as the construction workers and plant employees eat in restaurants and shop in local establishments.

At the same time, the project will create little demand for local services, such as schools, police or roads – a win-win for residents of the county.

Key Facts

Tenaska is working with PRC Wind to develop a wind-powered electric generation project that will have the ability to produce 250 MW of renewable power.

Location

Near Wilmont in Nobles County.

Timeline

Development in 2017 and 2018; construction anticipated in late 2018; commercial operation targeted for 30 years, starting in 2019.

Design

Up to 125 wind turbines – 2 to 3.5 MW each.

Electricity Production

250 MW of renewable energy for Minnesota Power. The project will interconnect into the Midcontinent Independent System Operator (MISO), the regional transmission organization that ensures the reliability of the electric grid serving Minnesota.

About Tenaska

Tenaska is an energy company based in Omaha, Nebraska, with a reputation for building high-quality, efficient and environmentally responsible energy projects. Tenaska develops, constructs, owns and operates non-utility electric generating plants. It oversees operations at nine natural gas-fueled and renewable power plants in five states, totaling approximately 7,000 MW.

Additional information about Tenaska is available at www.tenaska.com

About PRC Wind

PRC Wind is a highly experienced developer, financier, constructor, owner and operator of renewable energy projects, with a proven track record of successful wind energy development in the Midwest U.S. Since 1997, PRC has achieved a strong track record of developing clean, cost-effective energy resources, having placed 1,800 MW of operating wind capacity on the grid.

Additional information about PRC Wind is available at www.prcwind.com