

Minnesota Public Utilities Commission

Staff Briefing Papers

Meeting Date: **August 27, 2015**..... Agenda Item # 1*

Company: Sibley Wind Substation, LLC

Docket No. IP6666/WS-08-208

In the Matter of Sibley Wind Substations, LLC’s Site Permit for a 20 MW Large Wind Energy Conversion System in Sibley County

Issue(s): Should the Commission revoke the LW ECS Site Permit? Should the Commission take any other action?

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Background Documents

Commission – Order (Issuing Site Permit)..... September 23, 2008
Commission – Order (Issuing Amended Site Permit)October 12, 2011
Sibley Wind Substation – Compliance Filing – Start of ConstructionOctober 11, 2013
Commission – Notice of Comment Period on Alleged Permit Violations July 31, 2015
Commission – Order Requiring Further Filings May 12, 2015
Sibley Wind Substation – Letter July 31, 2015

The attached materials are work papers of the Commission staff. They are intended for use by the Minnesota Public Utilities Commission (Commission) and are based upon information already in the record unless noted otherwise.

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I. STATEMENT OF THE ISSUES

Should the Commission revoke the LWECS Site Permit? Should the Commission take any other action?

II. PROCEDURAL HISTORY

The Commission issued Sibley Wind Substation a Large Wind Energy Conversion System (LWECS) Site Permit in 2008. The Commission amended the site permit on October 12, 2010, allowing an additional three years for Sibley Wind Substation to commence construction and obtain a power purchase agreement.

On October 11, 2013, Sibley Wind Substation indicated that it had commenced construction. Through 2014 and 2015, the Commission received complaints from the public regarding the status of the project (that construction had not continued), concerns about avian and bat species, and other allegations of site permit violations. The Commission solicited comments and met on _____ to consider the allegations.

In its May 12, 2015 Order, the Commission found that Sibley Wind Substation could continue construction, but required additional filings and construction progress reports. The Commission required the project to file the results of its on-going avian and bat survey and reports, a draft and final Avian and Bat Protection Plan, and a report showing evidence of construction during the time period of May 1 to July 1, 2015. The Commission received several required filings in May and June 2015 from Sibley Wind Substation, but Sibley Wind missed the deadline to file a construction update on or by July 15, 2015.

On July 31, 2015, the Commission received a letter from Sibley Wind Substation forfeiting their site permit. The letter provided:

Re: Request to Cancel Sibley Wind Substation, LLC's Site Permit for a 20 Megawatt Large Wind Energy Conversion System in Sibley County

We respectfully request our permit for the Sibley Wind Project be canceled while we work out a solution that will meet everyone's requirements relating to avian studies on the project. We do feel the avian issue was something beyond our control and is a forced majeure event.

Sibley Wind understands that it will need to seek a new site permit in order to proceed with the Project.

We would also like to commend the entire staff at commerce for the great work on the project.

III. Statute, Rules and Permit Conditions

Under Minn. Stat. § 216E.14¹ and Minn. R. 7854.1300, the Commission may revoke or suspend a site permit for a LWECS at any time after adequate notice and hearing if it finds:

- that the permittee has knowingly made a false statement in the application or required accompanying study;
- the permittee failed to comply with the material conditions of the permit;
- the permitted LWECS endangers human health or the environment and the danger cannot be resolved by modifications to the project or permit; or
- the permittee has violated other laws that reflect an inability to comply with the permit.

IV. Staff Discussion

Staff believes the July 31, 2015 letter submitted by Sibley Wind Substation outlining the status of the project is sufficient reason to revoke the Sibley Wind Substation LWECS Site Permit. Sibley Wind Substation's failure to meet the July 15, 2015 filing deadline (as required by the Commission's May 12, 2015 Order) provides additional support for a revocation.

V. COMMISSION DECISION ALTERNATIVES

A. Sibley Wind Substation, LLC – LWECS Site Permit

1. Revoke the Sibley Wind Substation Site Permit for a Large Wind Energy Conversion System in Sibley County for the reasons outlined above.
2. Take some other action deemed appropriate.

Staff recommends A1.

¹The wind statutes, Minn. Stat. § 216F.02 refer to the general power plant siting act statute regarding revocation - 216E.14 - as applicable to large wind projects.