

September 27, 2019

Daniel Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, MN 55101-2147

RE: **In the Matter of the Applications of Dodge County Wind, LLC for a Certificate of Need, a Site Permit, and a Route Permit for the Dodge County Wind Project and associated 345 kV High Voltage Transmission Line in Dodge, and Olmsted, and Steele counties**

Docket No. IP6981/CN-17-306, WS-17-307, TL-17-308

Dear Mr. Wolf,

These comments and recommendations address the questions identified in the Commission's September 13, 2019, Notice of Comment Period on changes in the Dodge County Wind project related to Dodge County Wind, LLC's (DCW) request to withdraw its application for a route permit.

Correspondence should be addressed to:

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Staff is available to answer any questions the Commission may have.

Sincerely,



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**BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

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

**DOCKET No. IP6981/CN-17-306, WS-17-307, TL-17-308**

**Date:** September 27, 2019

**EERA Staff:** Suzanne Steinhauer | 651-539-1843 | [Suzanne.steinhauer@state.mn.us](mailto:Suzanne.steinhauer@state.mn.us)

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**In the Matter of the Applications of Dodge County Wind, LLC for a Certificate of Need, a Site Permit, and a Route Permit for the Dodge County Wind Project and associated 345 kV High Voltage Transmission Line in Dodge, and Olmsted, and Steele counties**

**Issues Addressed:** These comments and recommendations address the questions identified in the Commission's September 13, 2019, Notice of Comment Period on changes in the Dodge County Wind project related to Dodge County Wind, LLC's (DCW) request to withdraw its application for a route permit.

Additional documents and information can be found on eDockets:

<https://www.edockets.state.mn.us/EFiling/search.jsp> (17-306 (Certificate of Need), 17-307 (LWECS Permit), and 17-308 (HVTL 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).

<http://mn.gov/commerce/energyfacilities>.

## Introduction and Background

On June 29, 2018, Dodge County Wind, LLC (DCW or Applicant) filed applications for a certificate of need (CN), large wind energy conversion system (LWECS) site permit, and a high voltage transmission line (HVTL) route permit, for its proposed Dodge County Wind Project (project). As proposed in those applications, the project consisted of two components - the 170 megawatt (MW) Dodge County Wind Farm to be located in Dodge and Steele counties, and an associated 345 kilovolt (kV) transmission line between 21 and 26 miles long in Dodge and Olmsted counties.

On November 1, 2018, Order, the Commission authorized “joint public hearings and combined environmental review on the applications, to the extent practical.”

On July 29, 2019, the Department of Commerce (Department) issued a Draft Environmental Impact Statement (EIS) for public comment. The draft EIS addressed both the wind farm and transmission aspects of the project.

On August 14, 2019, DCW filed a request to withdraw its application for high voltage transmission line permit as well as a motion to suspend the procedural schedule for the Project.

On August 20, 2019, the Department, in response to DCW’s request to withdraw its route application, closed the comment period on the draft EIS.

On September 6, 2019, DCW filed updated LWECS site permit and CN applications. As described in the updated applications, the project will generate up to 170 MW of electric energy at the Dodge County Wind Farm and deliver to the electrical grid at a point yet to be determined via a newly constructed generation-tie line of yet to be determined voltage. DCW has negotiated a 30-year power purchase agreement with the Minnesota Municipal Power Agency (MMPA); however, the status of that agreement is uncertain given the change and consequent delay in the Project.

DCW proposes to construct up to 70 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 is approximately 81 square miles (52,000 acres) located in western Dodge County (Ashland, Claremont, Hayfield, Ridgely, and Westfield townships) and eastern Steele County (Aurora, Havana, and Owatonna townships).<sup>1</sup> DCW proposes to install 60 or 68 General Electric (GE) 2.5 MW wind turbines; the proposed turbines have 116-meter (381-

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<sup>1</sup> DCW, Revised Site Permit Application (SPA), September 6, 2019, at p. 5

foot) blades on 89-meter (291-foot) towers, for a total height of 148.3 meters (486.5 feet) from ground to tip.<sup>2</sup>

As of the September 6, 2019, filing, DCW stated it had acquired 95% of the land required for successful construction and operation of the Project.<sup>3</sup> Easement negotiations are ongoing. DCW anticipates commencing construction of the LWECs in early 2021, with an anticipated commercial operation date (COD) of December 31, 2021.<sup>4</sup>

On September 13, 2019, the Commission issued a notice soliciting comments on what procedural actions the Commission should take with the changes to the project. The notice requested comments on:

- What actions the Commission should take on DCS's request to withdraw the application for a route permit.
- Whether the Commission has the authority to consider a certificate of need application for a proposed electric power generating plant that does not include associated transmission lines necessary to interconnect the plant to the transmission system.
- What procedural actions the Commission should take concerning the revised certificate of need and site permit applications.
  - whether the revised applications should still be considered substantially complete.
  - whether the draft environmental impact statement issued July 30, 2019 is still the appropriate environmental
  - What the appropriate procedural process for reviewing the revised applications should be referred to the Office of Administrative Hearings (OAH) for contested case proceedings,
- What action the Commission should take on Laborers District Council of Minnesota and North Dakota's (LIUNA) request to compel testimony. ,

## EERA Staff Analysis and Comments

Department of Commerce, Energy Environmental Review and Analysis (EERA) staff provides the following analysis and comments in response to the Commission's notice requesting comments issues related to the procedures to review and process the applications.

EERA staff takes no position on matters related to actions the Commission should take on DCW's request to withdraw its route permit application, on the Commission's authority to consider a CN application for a

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<sup>2</sup> Ibid., at Table 3. If construction of the project is able to be completed in 2020, DCW would replace 8 of the 2.5 MW 2.3 MW turbines with GE; the 2.3 MW turbines have 116.5-meter (382-foot) blades on 80-meter (262-foot) towers, for a total height of 138.3 meters (453.5 feet)

<sup>3</sup> Ibid., at p. 7

<sup>4</sup> Ibid., at p. 1

generating facility that does not include transmission required to connect to the grid, or on LIUNA's requests.

With respect to the Commission's request for comments on procedural actions, EERA staff provides recommendations on the completeness of the applications filed on September 6, 2019, as well as the appropriate form of environmental review and the associated procedural requirements.

### **Completeness of Applications**

EERA staff has reviewed the site permit application pursuant the requirements of Minnesota Rule 7854 (Wind Siting Rules) (see Table1). EERA staff compared the September 6, 2019, application with earlier versions (as originally filed in June 2018 and subsequently updated in January 2019) as well as the draft EIS filed by EERA on July 29, 2019. Based on this review, EERA staff recommends that DCW file a complete updated site permit application containing all appendices and incorporating information developed in the draft EIS.

Under Minnesota Rules, part 7854.0500, subpart7, the analysis of environmental impacts required in the application satisfies the environmental review requirements of chapter 4410, parts 7850.100 to 7849.2100, and no separate environmental review document is required for a proposed large wind energy conversion system. In the case of the DCW project, the draft EIS issued July 29, 2019, updated analysis of information provided in the earlier versions of the site permit applications.

While the September 6, 2019, update of the site permit application provides the information required by Minnesota Rule 7854.0500, and incorporates information associated with the updated turbine information, it does not consistently incorporate updated information provided in the draft EIS. Given the three (3) versions of the application (June 2018, January 2019, and the September 6, 2019 update) in the docket, and the development of the record (including review of the wind farm as part of the EIS), EERA recommends that DCW file a complete site permit application (with all appendices) that represents the project it intends to build.

Specifically, the revised site permit application should contain:

- An updated application, including all appendices, representing the project as proposed by DCW.
- An updated schedule.
- Updated information on the status of the power purchase agreement.
- A discussion of potential mitigation measures to minimize impacts from turbine lighting.
- A discussion of potential impacts to aerial agricultural application operations from the project and mitigation measures to minimize impacts.
- Updated text incorporating July 2019 Draft ABPP (Appendix G in Draft EIS) and inclusion of Draft ABPP as an appendix in complete application.
- An expanded discussion of potential stray voltage impacts and mitigation related to livestock.

- Updated information on anticipated work force, consistent with the information provided in DCW's filing of September 13, 2013,<sup>5</sup> and a more robust discussion of the impact of the project on the local economy.
- Updated information on decommissioning, consistent with, or updated if appropriate, the draft Decommissioning Plan shown in Appendix F of the Draft EIS.
- Cost information that either incorporates or updates DCW's estimate provided in response to the Department's Data Request (Draft EIS, Section 3.1.2).

EERA staff has reviewed the CN application pursuant to the requirements of Minnesota Rule 7849.0310 (Environmental Information Required). While staff finds the information in the application required for environmental review to be rather cursory, staff believes that, when combined with the more detailed information contained in the LWECs application, the sum of the information provided is sufficient to begin review of the project.

### **Environmental Review**

As noted above, for purposes of the site permit, no separate environmental review document is required for a proposed large wind energy conversion system site permit.

Certificate of need applications are subject to environmental review, in the form of an environmental report (ER), prepared by EERA.<sup>6</sup>

As the project was originally proposed in June 2018, it included 21 to 26 miles of 345 kV transmission line. Because of the length and voltage of the proposed HVTL, the route permit application, required the Commission consider it under the full permitting process prescribed by Minnesota Statute 216E.03 and Minnesota Rules 7850,<sup>7</sup> including the preparation of an environmental impact statement (EIS).

In comments filed on August 10, 2018, EERA staff recommended that, because the three applications were submitted simultaneously and the project components were clearly interrelated, the applications for the proposed project be processed jointly and that an EIS in lieu of an ER be prepared.<sup>8</sup> Additionally, in EERA staff's view, a joint processing had the additional benefit of enhancing public participation by consolidating the opportunities for public comment on all aspects of the project – need, site, and route.

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<sup>5</sup> DCW, *Updated Attachment 2 in Response to Motion to Compel*, September 13, 2019

<sup>6</sup> Minnesota Rule 7849.1200.

<sup>7</sup> Minnesota Statute 216E.04, Subd. 2 (noting those projects that are eligible to proceed under an alternative permitting process).

<sup>8</sup> Minnesota Rule 7849.1900, subpart 2 provides for an EIS to be prepared in lieu of an ER if a CN applicant applies for a route permit (for the same project) prior to completion of the ER. The EIS must include an analysis of alternatives to the project required by Minnesota Rule 7849.1500.

Without the large transmission line, there is no longer a nexus for a mandatory EIS. Should the Commission choose to proceed with its CN review at this stage in the project development (without knowing how the generation will connect to the grid), the appropriate environmental review document for the project as presented in the CN and site permit applications, is an ER.

Although the draft EIS addressed ER requirements (primarily in Chapter 3), EERA staff believes that given the changes in the project, the time lag between the scoping meetings and scoping comment periods,<sup>9</sup> and the closure of the comment period on the draft EIS, a new scoping period is appropriate prior to issuing a scope for the ER.

### **Procedural Process**

In its comments filed August 10, 2018, EERA noted that a contested case proceeding is required for the high-voltage transmission line permit application and recommended joint proceedings, including joint public hearings and joint environmental review to facilitate record development on all three dockets. None of the comments received at that time recommended separate proceedings, and the Applicant concurred with the EERA that it would be reasonable to conduct joint proceedings. In its November 1, 2018, Order, the Commission authorized “joint public hearings and combined environmental review on the applications, to the extent practical.”<sup>10</sup>

With the request to withdraw the route permit application, the automatic trigger for the contested case hearing is removed. Minnesota Rule 7854.0800, subpart 5 provides the opportunity for any person to request a contested case hearing on an LW ECS site permit application. In its review of the record, EERA did not identify any recommendations for a contested case hearing related specifically issues related to the site permit. That being said, it is quite possible that some people may have declined to request a contested case hearing on the wind element of the project in anticipation of presumed joint proceedings under a contested case hearing.

EERA staff is agnostic on whether contested case proceedings should continue.

### **EERA Staff Recommendation**

Should the Commission choose to proceed with its review of the project as currently proposed, EERA staff recommends that the Commission accept the site permit application for the proposed Dodge County Wind Project as substantially complete, conditioned upon DCW filing a complete site permit application.

A complete site permit application should contain:

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<sup>9</sup> The public information and scoping meeting was held in October 2018, the comment period closed in February 2019 to provide an opportunity to comment on the amended site and CN applications filed in January 2019.

<sup>10</sup> Commission Order, November 1, 2018



- An updated application, including all appendices, representing the project as proposed by DCW.
- An updated schedule.
- Updated information on the status of the power purchase agreement.
- A discussion of potential mitigation measures to minimize impacts from turbine lighting.
- A discussion of potential impacts to aerial agricultural application operations from the project and mitigation measures to minimize impacts.
- Updated text incorporating July 2019 Draft ABPP (Appendix G in Draft EIS) and inclusion of Draft ABPP as an appendix in complete application.
- An expanded discussion of potential stray voltage impacts and mitigation related to livestock.
- Updated information on anticipated work force, consistent with the information provided in DCW's filing of September 13, 2013,<sup>11</sup> and a more robust discussion of the impact of the project on the local economy.
- Updated information on decommissioning, consistent with, or updated if appropriate, the draft Decommissioning Plan shown in Appendix F of the Draft EIS.
- Cost information that either incorporates or updates DCW's estimate provided in response to the Department's Data Request (Draft EIS, Section 3.1.2).

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<sup>11</sup> DCW, *Updated Attachment 2 in Response to Motion to Compel*, September 13, 2019

Table 1 - LWECS Site Permit Application Completeness

SITE PERMIT APPLICATION CONTENTS	Location in Application	EERA Staff Comments
Subpart 1. Applicant		
(A) A letter of transmittal signed by an authorized representative or agent of the applicant		Information is provided to satisfy this requirement.
(B) The complete name, address, and telephone number of the applicant and any authorized representative	1.0	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	1.0	Information is provided to satisfy this requirement
(D) The role of the permit applicant in the construction and operation of the LWECS	1.0	Information is provided to satisfy this requirement.
(E) Other applicant-affiliated LWECS located in Minnesota	1.0	Information is provided to satisfy this requirement.
(F) The operator of the LWECS if different from the applicant	1.0	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	1.0	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; 10.8	Update schedule (section 10.8) to reconcile text and Table.
(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	Update information to address uncertainty of PPA status.
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.

SITE PERMIT APPLICATION CONTENTS	Location in Application	EERA Staff Comments
(B)(4) Wind Characteristics: atmospheric stability	9.1.4	Information is provided to satisfy this requirement.
(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.	9.1.12	Information is provided to satisfy this requirement.
(D) The location of other wind turbines in the general area of the proposed LWECS	9.2, Map 11	Information is provided to satisfy this requirement.
Subpart 5. Description of applicant's wind rights	7.0, Map 4	Information is provided to satisfy this requirement.
<b>Subpart 6. Project Design</b>		
(A) A project layout, including a map showing a proposed array spacing of the turbines	5.1, Map 3	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 LWECS electrical system, including transformers at both low voltage and medium voltage	5.3, 5.3.1-5.3.5	Information is provided to satisfy this requirement.
(D) Description and location of associated facilities	6.0	Information is provided to satisfy this requirement.
<b>Subpart 7. Environmental Impacts</b>		
(A) Demographics, including people, homes, and businesses	8.1, 8.2	Information is provided to satisfy this requirement.
(B) Noise	8.3, Appendix D	Information is provided to satisfy this requirement.
(C) Visual impacts	8.4, Appendix E	Discuss turbine lighting and potential mitigation.
(D) Public services and infrastructure	8.5	Information is provided to satisfy this requirement.
(E) Cultural and archaeological impacts	8.6	Information is provided to satisfy this requirement.
(F) Recreational resources	8.7	Information is provided to satisfy this requirement.

SITE PERMIT APPLICATION CONTENTS	Location in Application	EERA Staff Comments
(G) Public health and safety, including air traffic, electromagnetic fields, and security and traffic	8.8	Discuss potential impacts and mitigation for aerial agricultural application.
(H) Hazardous materials	8.9	Information is provided to satisfy this requirement.
(I) Land-based economics, including agriculture, forestry, and mining	8.10	Expand discussion of potential stray voltage impacts and mitigation measures for livestock
(J) Tourism and community benefits	8.11 and 8.12	Update information on anticipated workforce and add more robust discussion of potential impact to local economy.
(K) Topography	8.13	Information is provided to satisfy this requirement
(L) Soils	8.14	Information is provided to satisfy this requirement.
(M) Geologic and groundwater resources	8.15	Quantify anticipated water usage..
(N) Surface water and floodplain resources	8.16	Information is provided to satisfy this requirement.
(O) Wetlands	8.17	Information is provided to satisfy this requirement.
(P) Vegetation	8.18	Information is provided to satisfy this requirement.
(Q) Wildlife	8.19, Appendix K (not included in revised application)	Update text to incorporate Draft ABPP prepared by DCW in July 2019 (Appendix G in Draft EIS) and include Draft ABPP in complete application
(R) Rare and unique natural resources	8.19	Information is provided to satisfy this requirement.
<b>Subpart 8. Construction of the Project</b>		
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.
<b>Subpart 9. Operation of the Project</b>		
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.
<b>Subpart 10. Costs</b>		
Description of the estimated costs of design and construction of the project and the expected operating costs.	10.7	Cost information is inconsistent with DCW's estimate provided in response to the Department's Data Request (Draft EIS, Section 3.1.2).

SITE PERMIT APPLICATION CONTENTS	Location in Application	EERA Staff Comments
Subpart 11. Schedule		
Anticipated schedule for completion of the project, including major milestones, and expected date of commercial operation (COD).	10.8	Information in the text is outdated and inconsistent with the schedule shown in Table 53.
Subpart 12. Energy Projections		
Energy expected to be generated by the Project	10.9	Information is provided to satisfy this requirement.
Subpart 13. Decommissioning		
(A) The anticipated life of the project	10.10.1	Information is provided to satisfy this requirement.
(B) The estimated decommissioning costs in current dollars	10.10.2	Text should incorporate, or update if appropriate, the information in the Draft Decommissioning Plan (Appendix F of Draft EIS).
(C) The method and schedule for updating the costs of decommissioning and restoration	10.10.3	Text should incorporate, or update if appropriate, the information in the Draft Decommissioning Plan (Appendix F of Draft EIS)..
(D) The method of ensuring that funds will be available for decommissioning and restoration	10.10.4	Text should incorporate, or update if appropriate, the information in the Draft Decommissioning Plan (Appendix F of Draft EIS).
(E) The anticipated manner in which the project will be decommissioned and the site restored	10.10.5	Text should incorporate, or update if appropriate, the information in the Draft Decommissioning Plan (Appendix F of Draft EIS)..
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.	11.0	Information is provided to satisfy this requirement.