

Staff Briefing Papers

Meeting Date: February 4, 2021

Agenda Item **2

Company: Big Bend Wind, LLC

Docket No. IP7013/CN-19-408, WS-19-619, and TL-19-621

In the Matter of the Applications of Big Bend Wind, LLC for a Certificate of Need, a Site Permit for the 308 MW Large Wind Energy Conversion System and a Route Permit for the 161 kV Transmission Line in Cottonwood, Martin, and Watonwan Counties, Minnesota

Issues:

1. Should the Commission accept the certificate of need, site permit and route permit applications as substantially complete?
2. Should the Commission direct that the application for the certificate of need be evaluated using the informal review process or refer the application to the Office of Administrative Hearings for a contested case proceeding?
3. What procedural process should the Commission authorize for evaluation of the site permit application?
4. What procedural process should the Commission authorize for evaluation of the route permit application?
5. Should an Environmental Assessment be prepared instead of the environmental report

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

required under the certificate of need process?

6. Should the certificate of need, site permit, and route permit applications be processed jointly, i.e., joint public information meetings, joint environmental review and joint public hearings?
7. Should an advisory task force be appointed for the route permit application?
8. Should the Commission vary the time limits of certain rules related to the processing of the applications?

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 Relevant Documents	Date
Commission Order Granting Exemptions from Certificate of Need Application Content Requirements	Sept. 24, 2019
Commission Order Granting Variance and Approving Notice Plan Supplemental Notice Under the Notice Plan	Dec. 4, 2019 Sept. 10, 2020
Application for a Certificate of Need (6 parts)	Nov. 9, 2020
Site Permit Application (27 parts)	Nov. 9, 2020
Application for Route Permit (12 parts)	Nov. 9, 2020
Commission Notice of Comment Period - Completeness	Nov. 23, 2020
Public Comment Requesting Contested Case-Brad Hutchinson	Dec. 14, 2020
Department of Commerce EERA Comments and Recommendations	Dec. 15, 2020
Department of Commerce Division of Energy Resources Comments	Dec. 15, 2020
LIUNA Public Comment	Dec. 15, 2020
Local 49 Union Public Comment	Dec. 15, 2020
Minnesota Historical Society Petition for Intervention	Dec. 18, 2020
Southwest regional Development Commission Comments	Dec. 21, 2020
Lower Sioux Indian Community Comments	Dec. 22, 2020
Big Bend Wind Reply Comments	Dec. 23, 2020

✓ Relevant Documents	Date
DOC EERA Reply Comments	Dec. 24, 2020
Big Bend Wind Corrected Notice	Dec. 30, 2020

The Commission also received the following letters expressing either support for or opposition to the proposed project: Merle Andersen (Document ID [202012-169006-01](#)), Berdon Baerg (Document ID [202012-169004-01](#)), Ryan Lepp (Document ID [202012-169051-01](#)), and Tim Harder (Document ID [202012-169077-02](#)).

Attachments

Attachment A – Sample Large Wind Energy Conversion System Site Permit

Attachment B – Sample High-Voltage Transmission Line Route Permit

I. STATEMENT OF THE ISSUES

1. Should the Commission accept the certificate of need, site permit and route permit applications as substantially complete?
2. Should the Commission direct that the application for the certificate of need be evaluated using the informal review process or refer the application to the Office of Administrative Hearings for a contested case proceeding?
3. What procedural process should the Commission authorize for evaluation of the site permit application?
4. What procedural process should the Commission authorize for evaluation of the route permit application?
5. Should an Environmental Assessment be prepared instead of the environmental report required under the certificate of need process?
6. Should the certificate of need, site permit, and route permit applications be processed jointly, i.e., joint public information meetings, joint environmental review and joint public hearings?
7. Should an advisory task force be appointed for the route permit application?
8. Should the Commission vary the time limits of certain rules related to the processing of the applications?

II. PROJECT DESCRIPTION

Big Bend Wind, LLC (Big Bend, Applicant), an affiliate of Apex Clean Energy Holdings, LLC, has filed applications for a certificate of need, a site permit, and a route permit for an up-to 308 megawatt (MW) large wind energy conversion system and an approximately 18-mile 161kV transmission line (Big Bend Wind Project). Big Bend has not finalized the decision on the type of turbines that would be used but would do so prior to construction. The applicant is proposing three wind turbine models with 5.5 MW to 5.7 MW capacity which would entail between 54 and 55 turbines. In addition to the turbines and related equipment, the Big Bend Wind Project would also include: gravel access roads, underground and/or above ground electrical collection and communication lines, one operation and maintenance facility, a project substation, up to one meteorological tower, a Sonic Detection and Ranging or Light Detection and Ranging unit, up to four Aircraft Detection Lighting System radars, and, if needed, one temporary batch plant area. The associated transmission line needed to interconnect the Wind Farm to the transmission grid will consist of approximately 18 miles of 161 kV transmission line located within Midway, Mountain Lake, Odin, and Cedar Townships in Cottonwood, Watonwan, and Martin Counties and will interconnect with the Blue Lake – Wilmarth - Interstate Junction 345 kV transmission line in Martin County.

The purpose of the project, as described by Big Bend Wind, is to produce renewable energy for purchase by electric utilities or other entities to satisfy Minnesota Renewable Energy Standard under Minn. Stat. § 216B.1691, or other clean energy standards and sustainability goals. Big Bend has not secured a power purchase agreement for the sale of the energy at this time.

The Big Bend Wind Project is associated with the Red Rock Solar Project proposed by Red Rock Solar, LLC (Red Rock), also an affiliate of Apex Clean Energy Holdings, LLC. The Red Rock Solar Project is an up-to 60 MW solar energy conversion system proposed to be located in Cottonwood County. The Big Bend Wind and Red Rock Solar Projects are proposed to be a hybrid wind and solar renewable energy project that would generate up to 335 MW of electricity together. The power produced by the Red Rock Solar Project would be transferred to the grid on the proposed transmission line associated with the Big Bend Wind Project. Red Rock Solar has filed separate applications for a certificated of need (CN-19-486) and a site permit (GS-19-620). The Applicant has requested that the Commission order a joint regulatory review process on all five of the applications for the projects.

III. PROCEDURAL HISTORY

On September 24, 2019, the Commission issued an order that approved exemptions to certain certificate of need data requirements for Big Bend Wind.¹

¹ Sept. 24, 2019 Commission Order, eDockets ID [20199-156040-01](#)

On December 4, 2019, the Commission issued an order that: (1) granted a variance to Minn. Rules, part 7829.2550, subp. 2 in order to accept the Department of Commerce's late-filed comments, and (2) approved Big Bend's proposed notice plan.²

On September 10, 2020, Big Bend filed a supplemental notice that it provided under the original Notice Plan. Big Bend modified the site of the wind farm where it anticipates routing its proposed 161 kV transmission line. As a result, Big Bend supplemented its direct mail notice to the landowners within the revised proposed transmission corridor.

On November 9, 2020, Big Bend filed separate applications for a certificate of need, a site permit, and a route permit for its proposed 308 MW Big Bend Wind Farm Project.

On November 23, 2019, the Commission issued a notice requesting comments on: (1) whether the certificate of need, site permit, and route permit applications contain the information required under Minn. R. 7849.0220, subp. 1 and 2, Minn. R. 7854.0500, and Minn. R. 7850.3100, respectively; (2) whether an advisory task force should be appointed for the route permit application; (3) whether there are any contested issues of fact with respect to the representations made in the applications; (4) whether the certificate of need application be evaluated using the Commission's informal process or referred to the OAH for contested case proceedings; (5) whether the site permit application be referred to the OAH for contested case proceedings; (6) whether the ER required under the certificate of need process be combined with the environmental assessment required for the transmission line; and (7) whether the certificate of need, site permit, and route permit applications be processed jointly. Initial comments were accepted until December 15, 2020 and reply comments until December 24, 2020.

On December 14, 2020, Brad Hutchinson, a resident in the project area submitted comments contesting how a number of issues of fact were represented in the application, including a perceived downplay of the project's sound and visual effects and impacts on birds and bats. Mr. Hutchinson also questioned the representations made in the application meant to minimize the effects on the Jeffers Petroglyphs and those who visit the site, which visit for a few hours at a time, yet deemed appropriate near the homes of residents who must live with the turbines every hour and day of the year. For the reasons listed, Mr. Hutchinson requested the applications be referred to the Office of Administrative Hearings for a contested case hearing.

² Big Bend implemented its notice plan by providing direct mail notice and newspaper publication between December 13 and 26, 2019. Affidavits of service and publication were filed to eDockets on January 27, 2020.

On December 18, 2020, Minnesota Historical Society submitted comments and a request to intervene in the permitting process for the Big Bend Wind Project.

By December 21, 2020, the Commission received comments on the applications from the Department of Commerce Division of Energy Resources (DOC DER), the Department of Commerce Energy Environmental Review and Analysis (DOC EERA), the Laborers International Union of North America, Minnesota and North Dakota (LIUNA), Local 49 Union, the Southwest Regional Development Commission, and the Lower Sioux Indian Community. A letter of support was received from Merle Andersen. Letters expressing general opposition to the proposed project were received from Brad Hutchinson, Berdon Baerg, Ryan Lepp, and Time Harder.

On December 23 and 24, 2020, reply comments were filed by Big Bend Wind and DOC EERA respectively.

On December 30, 2020, Big Bend Wind submitted a Corrected Notice of filling of Certificate of Need, Site Permit, and Route Permit applications for the Big Bend Wind Project.

IV. STATUTES AND RULES

A. Certificate of Need Application

The proposed project is a large energy facility as defined by Minn. Stat. § 216B.2421, subd. 2(1), because it is a large electric power generating plant (LEPGP) with a capacity of 50 megawatts or more with an associated transmission line that is necessary to interconnect the plant to the transmission system. Under Minn. Stat. § 216B.243, subd. 2, no large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the Commission.

1. Application Completeness

Under Minn. R. 7849.0220, an application for a certificate of need for a LEPGP must include all the information required by parts 7849.0240, 7849.0250, and 7849.0270 to 7849.0340.

The Commission may exempt certain data requirements pursuant to Minn. R. 7849.0200, subp. 6. Under Minn. R. 7849.0200, subp. 5, the Commission must notify the applicant within 30 days of the receipt of an application if the application is not substantially complete. Upon notification, the applicant may correct any deficiency and may resubmit the application. If the revised application is substantially complete, the date of its submission is considered the application date.

2. *Procedural Treatment*

Under Minn. R. 7829.1000, rules of practice and procedure, the Commission must refer matters to the OAH for contested case proceedings when there are contested material facts involved or where significant issues cannot otherwise be resolved to the Commission's satisfaction.

Alternatively, under Minn. R. 7829.1200, the Commission may authorize the use of informal or expedited proceedings when: (1) there are no material facts in dispute; (2) parties have agreed to informal or expedited proceedings; or (3) informal or expedited proceedings are required by statute. Also, under the informal review process: (1) a person may request that a contested case hearing be held; (2) the request must be filed by the deadline of the reply comments on the merits of the CN Application; (3) the request must include the issues to be addressed in the hearing and the reasons a contested hearing is required to resolve those issues; and (4) the Commission must agree that there is a material issue of fact and that holding a hearing would aid the Commission in making a final determination on the site permit application. If ordered by the Commission, the contested hearing must be conducted according to the rules of the OAH and the Commission must identify the issues to be resolved and limit the scope and conduct of the hearing according to applicable law, due process, and fundamental fairness. Alternatively, the Commission may request the administrative law judge (ALJ) to identify the issues and determine the appropriate scope and conduct of the hearing according to applicable law, due process, and fundamental fairness.

3. *Environmental Review*

Minn. R. 7849.1200 to 7849.2100, establishes the requirements concerning preparation of an environmental report (ER) for a LEPGP.

4. *Timing*

Under Minn. Stat. § 216B.243, subd. 5, the Commission shall approve or deny a certificate of need for a large energy facility within 12 months of the submission of an application.

B. Site Permit Application

The proposed project is a LWECS as defined by Minn. Stat. § 216F.01, subd. 2, because it is a combination of wind energy conversion systems with a combined nameplate capacity of 5 MW or more. Under Minn. Stat. § 216F.04, no person may construct a LWECS without the issuance of a site permit by the Commission. In addition, pursuant to Minn. R. 7854.0500, subp. 2(A), the Commission shall not issue a site permit for a LWECS for which a certificate of need is required until the Commission has granted a certificate of need, although the Commission may process a site permit application while the certificate of need application is pending.

1. *Application Completeness*

A LWECS site permit application must include all the information required under Minn. R. 7854.0500. Under Minn. R. 7854.0600, subp. 1, the Commission must decide on the substantial completeness of an application within 30 days after receipt of the application. The Commission may accept, conditionally accept or reject an application. If the Commission conditionally accepts or rejects an application, the Commission must advise the applicant of the deficiencies. The applicant may refile the revised application and the Commission must again act on the application within 30 days after receipt.

2. *Procedural Treatment*

Minn. R. 7854.0800, requires the Commission to make a preliminary determination on whether a site permit may be issued or should be denied within 45 days after acceptance of the application. If the preliminary determination is to issue a site permit, the Commission shall prepare a draft site permit. A draft site permit does not authorize an applicant to construct a LWECS. The Commission may change the draft site permit in any respect before final issuance or may deny the site permit. In accordance with Minn. R. 7854.0900, the Commission, upon issuance of a draft site permit, must hold at least one public meeting and provide for a 30-day minimum written comment period. In addition, Minn. Stat. § 216F.05 (3), indicates that the Commission shall adopt rules “for the conduct of a public information meeting and a public hearing on the proposed LWECS.”

Concerning a contested case hearing: (1) a person may request that a contested case hearing be held; (2) the request must be filed within the time period established for submitting comments on the draft site permit; (3) the request must include the issues to be addressed in the hearing and the reasons a hearing is required to resolve those issues; and (4) the Commission finds that a material issue of fact has been raised and that holding a hearing would aid the Commission in making a final determination on the site permit application. If ordered by the Commission, the hearing must be conducted according to the rules of the OAH and the Commission must identify the issues to be resolved and limit the scope and conduct of the hearing according to applicable law, due process, and fundamental fairness. Alternatively, the Commission may request the administrative law judge (ALJ) to identify the issues and determine the appropriate scope and conduct of the hearing according to applicable law, due process, and fundamental fairness.³

³ See Minn. R. 7854.0900, subp. 5.

3. *Environmental Review*

The analysis of potential environmental impacts of a proposed LWECS identified under Minn. R. 7854.0500, subp. 7, are required as part of the site permit application and satisfy the environmental review requirements of Minn. R. ch. 4410, Minn. R. 7849.1000 to 7849.2100, and Minn. Stat. ch. 116D. No other environmental assessment worksheet or EIS is required on a proposed LWECS project.

4. *Timing*

Under 7854.1000, subp. 2, the Commission shall approve or deny a site permit for an LWECS within 180 days after acceptance of the application, unless the applicant agrees to an extension or the Commission extends the deadline for cause.

C. Route Permit Application

The 18-mile 161 kV transmission line associated with the project is defined as a high-voltage transmission line under Minn. Stat. § 216E.01, subd. 4, because it is a conductor of electric energy designed for and capable of operation at a voltage of 100 kV or more and is greater than 1,500 feet in length. Under Minn. Stat. § 216E.03, subd. 2, no person may construct a HVTL without a route permit from the Commission. A HVTL may be constructed only along a route approved by the Commission.

The proposed project is an 18-mile 161 kV transmission line and therefore requires a route permit before it can be constructed.

1. *Application Completeness*

A HVTL route permit application must include all the information required under Minn. R. 7850.1900, subp. 2 and 3. Under Minn. R. 7850.2000, the Commission must decide on the substantial completeness of an application within 10 days after receipt of the application. The Commission may accept, conditionally accept or reject an application. If the Commission conditionally accepts or rejects an application, the Commission must advise the applicant of the deficiencies. The applicant may refile the revised application and the Commission must again act on the application within 10 days after receipt. The Commission shall not reject an application if the information that is missing can be obtained from the applicant within 60 days from the date of the application and the lack of the information will not interfere with the public's ability to review the proposed project.

2. *Procedural Treatment*

Minnesota Statutes Section 216E.04, subdivision 2(3) provides for an Alternative Review Process for transmission lines between 100 and 200 kilovolts; therefore, this Project qualifies for alternative review. The permitting timeline for the Alternative Review Process is 6 months, a shorter timeline than provided for transmission lines over 200 kV.

Route permit applications for high-voltage transmission lines under the alternative review process, must include specific information about the proposed project as provided under Minn. Rules, part 7850.3100, which references the same information requirements as under Minn. Rules, part 7850.1900.

Under the alternative review process, an applicant is not required to propose any alternative routes but must discuss any other routes that were rejected by the applicant. Further, an Environmental Impact Statement is not required under the alternative review process. Instead, the Department of Commerce shall prepare an environmental assessment (EA).

A route permit under the Alternative Permitting Process can be issued in six months after the Commission's determination that the Application is complete. The Commission may extend this time limit for up to three months for just cause or upon agreement of the applicant.

The Commission may accept an application as complete, accept an application as complete upon filing missing information, or reject an application and advise the applicant of the deficiencies. The permit review process begins on the date the Commission determines that an application is complete.

3. Advisory Task Force

The Commission has the authority to appoint an advisory task force under Minn. Stat. § 216E.08. The Commission must determine whether to appoint a task force as early in the process as possible. If the Commission does not establish an advisory task force, a member of the public may request one, and the Commission must promptly consider the request. Upon appointment of an advisory task force, the Commission must specify the charge to the task force and appoint its members in accordance with Minn. Stat. § 216E.08, subd. 1.

4. Environmental Review

Minn. R. 7850.3700 requires that an Environmental Assessment (EA) be developed for each proposed high voltage transmission line being reviewed under the alternative permitting process. The Department of Commerce is responsible for preparing an EA, on behalf of the Commission, for a proposed high-voltage transmission line project pursuant to Minn. R. 7850.3700. The EA must provide information on the human and environmental impacts of the proposed HVTL and of alternative routes including methods to mitigate identified impacts. The

Commission shall not make a final decision on a route permit until it has found the EA to be adequate.

5. *Timing*

Under Minn. R. 7850.2700, the Commission shall make a final decision on a route permit application within 60 days after receipt of the report of the ALJ and within one year from the date the application was determined to be complete. This time may be extended by the Commission for up to three months for just cause or by agreement of the applicant.

D. Joint Proceedings and Environmental Review

Minn. Stat. § 216B.243, subd. 4, provides that unless the Commission determines that a joint hearing on siting (or routing) and need is not feasible or more efficient, or otherwise not in the public interest, a joint hearing shall be held.

Minn. R. 7849.1900, subp. 1, provides that in the event an applicant for a certificate of need for a LEPGP or a HVTL applies to the Commission for a site permit or route permit prior to the time the Department of Commerce completes the ER for the certificate of need, the Department may elect to prepare an EA in lieu of the required ER. If combining the processes would delay completion of the environmental review, the applicant and the Commission must agree to the combination. If the documents are combined, the Department must include the analysis of alternatives required by Minn. R. 7849.1500, in the EA, but is not required to prepare an ER.

E. Rule Variances

Under Minn. R. 7829.3200, subp. 1, the Commission is authorized to grant a variance to its rules if it determines that: 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.

V. COMMENTS

Initial comments on the completeness of the applications and on the appropriate review process were filed by DOC DER, DOC EERA, LIUNA, Minnesota Historical Society, Lower Sioux Indian Community, Southwest Regional Development Commission, and Brad Hutchinson. Reply comments were filed by DOC EERA and Big Bend Wind.

A. DOC DER

In its comments filed on December 15, 2020, DOC DER concluded that Big Bend Wind had met the certificate of need application content requirements and that the application is complete. DOC DER also stated that it does not anticipate significant disputes in this proceeding as it relates to the need analysis that would require a contested case proceeding and recommended the Commission use the informal process to review the certificate of need application. The Department also recommended that the Commission require at least one joint public hearing be held for the certificate of need, site, and route permits of both the Big Bend Wind and the associated Red Rock Solar projects.

B. DOC EERA

In comments filed on December 15, 2020, DOC EERA provided the following:

- Concluded that the site permit and route permit applications met the applicable content requirements and recommended that the Commission accept the applications as substantially complete.
- Concluded that the environmental information in the CN application, combined with the more detailed information contained in the LWECs and HVTL applications, is sufficient to begin the environmental review of the Project.
- Concerning the Advisory Task Force, the Department indicated it has reviewed the merits of establishing an advisory task force for the proposed HVTL and did not believe that a task force is warranted for this HVTL project.
- The Department indicated it is aware of contested issues of fact with respect to the application for the proposed LWECs but it was not aware of any contested issues with respect to the HVTL.
 - The first contested issue is the potential viewshed impacts from the wind turbines to Jeffers Petroglyphs site. The Department indicated that if the Commission proceeds with consideration of the Site Permit Application for the Big Bend Wind Project, the Commission should consult directly with Minnesota State Historic Preservation Office (SHPO) to seek ways to avoid and mitigate any adverse effects to the Jeffers Historic Petroglyphs.
 - The second contested issue is related to the use of eminent domain. Big Bend does not address the question of whether they have the authority to exercise eminent domain within the application documents. This uncertainty surrounding Independent Power Producers and use of eminent domain creates some areas of concern relative to environmental review of the HVTL project because it affects the route or route segment alternatives for HVTLs that Commerce is charged with analyzing from the environmental review standpoint.

- Concerning a contested case proceeding, DOC EERA pointed out that it is not aware of any controversial issues or unaccounted for sensitive resource impacts associated with the HVTL route permit application that would require a contested case proceeding. However, due to the proximity of the Big Bend project to the Jeffers Petroglyphs and the potential of visual impacts to users of the Jeffers Petroglyphs site, and to ensure complete record development and engagement of the interested American Indian Tribes, EERA recommended the Commission proceed with the Contested Case.
- Recommended that the certificate of need, site permit, and route permit applications be processed jointly. In support of its recommendation, DOC EERA pointed out that in addition to the three applications being interrelated and submitted at the same time, the project components are clearly interrelated.
- Proposed preparation of an EA in lieu of an ER for the CN, especially given that the site permit cannot be issued before a CN determination is made.
- Recommended joint proceedings on the Big Bend Wind Project and the Red Rock Solar Project because the two projects would function as a hybrid renewable energy generation project sharing adjacent substations, the same HVTL and electrical grid POI. Holding joint proceedings would be more efficient and help members of the public who wish to participate throughout the permitting process.

C. LIUNA

LIUNA filed comments on December 15, 2020. LIUNA indicated they are pleased with the developer's plan to utilize a strong preference for bids that utilize local, union labor, which will allow the project to maximize local socioeconomic benefits while meeting timeline and safety requirements. LIUNA commented on the current job market concerns caused by the COVID-19 global pandemic and expressed optimism that a commitment from the developer to utilize local labor to construct the project is important to creating and sustaining high-quality construction and maintenance jobs. LIUNA did not take a position on the completeness or the procedural treatment of the applications.

D. Local 49 Union

In December 15, 2020 comments, Local 49, International Union of Operating Engineers offered a similar assessment of the project to LIUNA and indicated they were pleased to hear that Big Bend Wind, LLC has identified using local labor as one of its development priorities for constructing the project. Local 49 did not take a position on the completeness or the procedural treatment of the applications.

E. Minnesota Historical Society

On December 18, 2020, the Minnesota Historical Society submitted a letter to the Executive Secretary of the Commission explaining their statutory role in operating the State's Historic Sites Network, including the Jeffers Petroglyphs Historic Site, a complex and sacred place that carries cross-cultural importance, where numerous tribal community members, including citizens of the Dakota and Lakota, Ioway, Cheyenne, and Ojibwe Nations actively continue to pray and hold ceremonies, as their ancestors have done for thousands of years. Introduction of wind turbines and/or transmission lines to the viewshed would dramatically diminish the integrity of the property's significant historic and sacred features.

MNHS along with Tribal Historic Preservation Officers have met several times with Apex Clean Energy staff and have repeatedly requested that viewshed analyses study a buffer of at least eight miles between the historic site and nearest turbine locations. Apex Clean Energy, at a July 29, 2020 meeting provided a "final" layout and analysis which includes turbines taller than previously designed, and as close as 5.2 miles. This final design would have a clear adverse effect to the Jeffers Petroglyphs State Historic Site.

For this reason, stating its duties and responsibilities as directed by the state, the Minnesota Historical Society requested to intervene in Apex Energy's permitting process for the Big Bend Wind Project and has encouraged the State Historic Preservation Office and the Indian Communities to also share their concerns about the negative impacts to the Jeffers Petroglyphs and its viewshed.

F. Lower Sioux Indian Community

On December 21, 2020, the Tribal Historic Preservation Office (THPO) submitted comments on behalf of the Lower Sioux Indian Community expressing the same concerns as outlined in the Minnesota Historical Society comments. THPO indicated the final analysis presented by the developer included the design of images from low points of the ridge, larger turbines than discussed in consultation, a lesser buffer zone of five miles, all of which disregard THPO's request for the protection of the viewshed of the Red Rock Ridge and the Jeffers Petroglyphs historic site, a site listed in the National Register of Historic Places.

In addition, the Lower Sioux THPO questioned the methodology of a 2019-2020 archaeological fieldwork and survey the project had conducted by a consulting research group on behalf of Apex Clean Energy. The tribes were not invited to offer an opinion on the principles of the survey, the professional and technical standards followed, or the dissemination of the survey

findings. The Lower Sioux Indian Community concluded their comments by urging the Public Utilities Commission to consider the detrimental impacts of this project to Red Rock Ridge and the Jeffers Petroglyphs Historic Site and oppose the building of the Big Bend Wind Project.

G. Southwest Regional Development Commission

In comments filed on December 21, 2020, the Southwest Regional Development Commission pointed to some of the same concerns about the project already expressed in other comments like the proximity of the turbines to the Jeffers Petroglyphs Historical Site and size of the proposed wind turbines that would be the largest in the region. The Southwest Regional Development Commission did not take a position on the appropriate procedural process or on the completeness of the applications.

H. Public Comment and Request for Contested Case – Brad Hutchinson

In comments submitted on December 14, 2020, Brad Hutchinson, a resident from the project area, asserted that the application downplays the effects on birds and bats. The area around the project is experiencing an increase in the population of large birds, including the Bald Eagle. Mr. Hutchinson also alleged that the application downplays the sound and visual effects of the project and suggested that the application distorts the effect on residents versus visitors. The application highlights adaptations made in order to minimize the effects on the Jeffers Petroglyphs Site and those who visit there. Mr. Hutchinson questioned how it is that these turbines could be so detrimental to an area that is visited for a few hours at a time yet deemed appropriate for the residents nearby, who must live with the turbines every hour and day of the year. Lastly, Mr. Hutchinson questioned the application's assessment on property values. For these reasons, Mr. Hutchinson requested that the site permit application be referred to the Office of Administrative Hearings for a contested case hearing with the applicant being compelled to do the following before any approval is given:

- Additional accommodations should be made to minimize damage to bird and bat habitats. This should include greater distancing from known nesting sites as well as lake and river areas.
- Every resident within the project area who has not signed an agreement with Big Bend, LLC should be contacted. Big Bend and these residents should negotiate a mutually satisfactory financial settlement, up to and including the purchase of their property at current market rates.

In reply comments from December 29, 2020, Mr. Hutchinson addressed the Applicant's response to his initial comments by pointing out the size of the project (308 MW) and the

height of turbines which range from 612 to 656 feet. By both of these measures (potential power output and turbine size) this project is significantly larger than what the Commission “has considered numerous times in prior proceedings.”

I. Big Bend Wind

In reply comments filed on December 23, 2020, Big Bend requested that the Commission accept the applications as complete and authorize joint review as recommended by DOC EERA. However, Big Bend did not recommend comprehensive joint contested hearings for the three applications, but instead recommended the informal review process (comment and response) for the certificate of need application in combination with the contested case proceeding for the site permit application. Big Bend indicated it is not aware of any contested issues related to the route permit and, as a result, asserted that a contested case is not warranted for the Route Permit Application.

Regarding the Site Permit Application, Big Bend discussed two potential issues of fact: use of eminent domain; and potential impacts to the Jeffers Petroglyphs site. With respect to eminent domain, responding to DOC EERA assertion that the use of eminent domain by Independent Power Producers creates an area of concern relative to environmental review of HVTL projects, Big Bend indicated that the use of eminent domain is a purely legal issue and the fact that other developers have taken differing positions on its use does not create a contested issue of material fact necessitating a contested case in this docket.

With respect to the Jeffers Petroglyphs, Big Bend provided that the project as proposed will install an Aircraft Detection Lighting System (ADLS) technology at the site, specifically to avoid and minimize impacts to the night sky, when constellations are visible, reducing the impact on the Jeffers site. Big Bend indicated they welcome MNHS’s and Lower Sioux’s continued coordination and involvement in the review process, but it did not believe a contested case is required to facilitate that involvement. Big Bend further indicated that both MNHS and the Lower Sioux’s concerns are not related to the completeness of the applications or the review process to be used. Big Bend asserted that they will address and respond to those issues at the appropriate stage in this process.

However, Big Bend does not oppose referring the limited issue of the Project’s potential impacts on the Jeffers Petroglyphs site and Red Rock Ridge to a contested case proceeding. Referral of this discrete issue would allow more clear and focused record development, and not further delay or lengthen the timeline for review of the Project.

Responding to the comments received from Mr. Brad Hutchinson, who requested contested proceedings related to his concerns about wildlife and property values, Big Bend disagreed that

these concerns are appropriate for referral to a contested case because they are issues with which the Commission is familiar and has considered numerous times in prior proceedings.

Lastly, addressing the topics of an advisory task force and the environmental review for the HVTL route permit, Big Bend agreed with EERA's recommendation that an advisory task force is not warranted at this time and agreed with EERA's plan to complete an environmental assessment in lieu of an environmental report.

J. EERA Reply Comments

On December 24, 2020, EERA, after considering all the comments submitted to the Big Bend Wind Project and Big Bend HVTL Line, reaffirmed their December 15 comments and recommendations.

VI. STAFF ANALYSIS

The Commission has the following issues before it regarding the certificate need, site permit, and route permit applications for the Big Bend Wind project:

- Whether the certificate of need, site permit, and route permit applications are substantially complete.
- The appropriate procedural treatment and environmental review process for evaluating each of the applications and whether the procedural steps of the processes should be separate or combined to the extent practicable.
- Whether an advisory task force should be appointed for the route permit application.
- Whether the time limits of certain rules related to the processing of the applications should be varied.

A. Application Completeness

Staff has reviewed the three applications and the comments received in this matter and agrees with the recommendation of DOC DER and DOC EERA that the applications meet the applicable content requirements and that the Commission should accept the applications as substantially complete.

B. Procedural Treatment and Environmental Review Process

Staff agrees with DOC EERA that the Commission should authorize joint public meetings, joint public hearings, and combined environmental review by way of an EA for the three applications, to the extent practical. Further, staff recommends that the Commission refer the

site permit application to the OAH for a contested case proceeding, based on comments received from DOC EERA, Brad Hutchinson, and the reply comments from the Applicant. Staff is aware of no contested issues of fact with the certificate of need or the route permit applications. Staff's recommendations are based on the following:

- As pointed out by DOC EERA: (1) the applications were filed concurrently; (2) the project components are interrelated; (3) joint review would provide administrative efficiencies; and (4) joint review would further the public interest by reducing confusion related to comment periods and multiple meetings and hearings.
- A certificate of need can take as long as 12 months to process and a decision on site or route permit applications cannot be made until a decision on the certificate of need is made. Therefore, a joint review of all three applications should not impact the timeline for the Commission's decisions on the certificate of need, site permit, and route permit applications.
- Several commenters have recommended some form of combined review. No person including the applicant has raised opposition to joint meetings, hearings, and environmental review.

Alternatively, the Commission could decide to allow the applications to be processed and reviewed separately or by using some other combination of review as deemed appropriate. For example:

- The route permit application follows a 6-month review schedule under the alternative review process which includes a public information and EA scoping meeting, scoping decision and preparation of an EA, a public hearing, and an ALJ Report.
- The certificate of need application may instead be processed using informal or expedited proceedings. This process still would require a public information and ER scoping meeting, public hearing and an ALJ summary of public comments. However, this does not require referral to OAH for a contested case proceeding. The statutory deadline to approve or deny a certificate of need application is 12 months.
- The statutory deadline for a decision on a LWECS site permit application is 180 days; however, the timeline may be extended for cause. The LWECS site permit application review process includes a decision by the Commission on whether to issue a draft site permit, a public information meeting, and a public hearing. The Commission has the discretion whether to require a report and recommendation from an ALJ. Under Minn. R. 7854.0900, subp. 5, the Commission may also refer the application for a contested

case hearing if it is requested by a person who identifies contested issues of fact that cannot be resolved through the public hearing process.

There are components of each process that are similar and that may be combined while allowing the process to proceed separately; however, staff does not believe any efficiencies would be achieved due to the ultimate ordering of decisions and the timelines involved. Staff also believes separate review would require multiple noticing and redundant meetings and hearings that would likely cause confusion and unnecessary commitment to members of the public.

C. Advisory Task Force

Staff agrees with the recommendation of DOC EERA that an advisory task force is not warranted, and that the existing EA scoping and development process contains adequate opportunity for the public and agencies to propose alternative routes, or route segments, and identify issues and potential mitigation measures that may reduce the potential for impacts.

D. Variances to Certain Time Limits

Staff identified the following rules that have certain time limits related to the processing of the applications that staff is recommending the Commission vary.

- Minn. R. 7849.0200, subp. 5: The Commission must make a completeness determination on a certificate of need application within 30 days from application filing.
- Minn. R. 7854.0600, subp. 1: The Commission must make a completeness determination on a LWECS site permit application within 30 days from application filing.

Although staff tried to review Big Bend's applications within the time periods identified in rule, a timeline of 30 days does not allow sufficient time to review the applications, solicit comments, schedule a Commission meeting and prepare a written order. Therefore, to be in compliance with rule, staff believes there is good cause for the Commission to vary the 30-day time limits. Staff believes the conditions outlined in Minn. Rule 7829.3200, subp. 1, authorizing the Commission to grant a variance to its rules are met as follows:

- 1) Enforcing the 30-day time frame would impose an excessive burden upon the public and upon the Commission and the Department because it would not allow adequate time to review the application, schedule a Commission meeting, and prepare a written order;
- 2) Varying the 30-day time frame would not adversely affect the public interest. Varying the time frames would instead serve the public interest by allowing more time for public comment on, and Commission consideration of, the application; and

- 3) Varying the 30-day time frame would not conflict with any standards imposed by law.

In addition, Minn. R. 7854.0800, subp. 1, requires the Commission to make a preliminary determination whether a draft site permit may be issued or should be denied within 45 days after the acceptance of the site permit application. If the preliminary determination is to issue a draft permit, the Commission will prepare and issue a draft site permit for further review. Staff does not believe the 45-day time period allows for sufficient time to schedule a public information meeting, provide for a comment period on issues to be considered in a draft site permit, and prepare a proposed draft site permit for Commission consideration. Therefore, to be in compliance with the rule, staff believes there is good cause for the Commission to vary the time limit. Staff believes the conditions outlined in Minn. Rule 7829.3200, subp. 1, authorizing the Commission to grant a variance to its rules are met as follows:

- 1) Enforcing the 45-day time frame would impose an excessive burden upon the public and upon the Commission and the Department because it would not allow adequate time to schedule and hold public information meetings, provide for an adequate public comment period, prepare a draft site permit, schedule a Commission meeting, and prepare a written order;
- 2) Varying the 45-day time frame would not adversely affect the public interest. Varying the 45-day time frame would instead serve the public interest by allowing more time for public comment on issues to be considered in a draft site permit; and
- 3) Varying the 45-day time frame would not conflict with any standards imposed by law.

E. LWECS and HVTL Sample Permits

Separately, staff proposes to introduce a sample LWECS site permit and a sample HVTL route permit into the record as has been done on past projects. The intent of the sample permits is to provide interested persons an opportunity to review typical permit language and provide suggestions of additional language and special conditions specific to the proposed project at an early stage in the review process. Having a sample permit will allow for greater discussion and will provide a foundation to build on during the hearing process (See Attachments A and B).

VII. COMMISSION DECISION OPTIONS

A. Application Completeness

1. Accept the certificate of need application as substantially complete.
2. Accept the site permit application as substantially complete.
3. Accept the route permit application as substantially complete.
4. Reject the one or more of the applications and indicate the specific deficiencies.
5. Take some other action deemed more appropriate.

B. Environmental Review

1. Approve joint public meetings and hearings and combined environmental review of the certificate of need, site permit, and route permit applications to the extent practical.
2. Request DOC EERA to prepare an EA in lieu of an ER.
3. Take some other action deemed more appropriate.

C. Procedural Treatment

Does the commission decide which issues to review in contested case or do we ask the ALJ to do so?

1. Refer the certificate of need, site permit, and route permit applications to the OAH for a contested case hearing pursuant to the contested case procedures of chapter 14.
2. Refer the site permit application to the OAH for a contested case hearing to be held jointly with the route permit application pursuant to chapter 14.
3. Refer the site permit application to the OAH for a contested case hearing pursuant to chapter 14.
4. Direct that the certificate of need application be reviewed using the informal review process.
5. Request that an administrative law judge from the Office of Administrative Hearings preside over a non-contested hearing and prepare a summary of public comments.
6. Appoint an ALJ to serve as the hearing examiner and request preparation of a summary report.
7. Appoint an ALJ to serve as the hearing examiner and request preparation of findings of fact, conclusions of law, and recommendation of a site permit conditions. Request that the ALJ determine the schedule for any testimony and post hearing briefing in consultation with interested parties, as necessary.
8. Appoint an ALJ to serve as the hearing examiner and request preparation of a summary report in general adherence to the timelines suggested by DOC EERA staff as provided in Table 3 of its December 15, 2020 Comments and Recommendations.

9. Appoint an ALJ to serve as the hearing examiner and request preparation of findings of fact, conclusions of law, and recommendation of a preferred route and permit conditions. Request that the ALJ determine the schedule for any testimony and post hearing briefing in consultation with interested parties, as necessary.
10. Appoint a staff member to serve as the hearing examiner (for route permit only).
11. Take some other action deemed more appropriate (i.e., a combination of the options above).

D. Advisory Task Force

1. Authorize the DOC EERA to establish an advisory task force and develop a proposed structure and charge for the task force.
2. Take no action on an advisory task force at this time.
3. Take some other action deemed appropriate.

E. Additional Procedural Guidance

Include one or more of the following items in the referral order(s) to OAH:

1. Require a prehearing conference at a date, time, and place to be set by the ALJ in consultation with Commission staff.
2. Request that the ALJ prepare a report setting forth findings, conclusions, and recommendations on the merits of the proposed project, applying the routing criteria set forth in statute and rule; and provide comments and recommendations, if any, on the conditions and provisions of a route permit.
3. If the certificate of need application is referred to OAH for contested case hearing, request that the ALJ prepare a report setting forth findings, conclusions, and recommendations on the merits of the proposed project, applying the certificate of need criteria set forth in statute and rule.
4. If the LW ECS site permit application is referred to OAH for contested case hearing, request that the ALJ prepare a report setting forth findings, conclusions, and recommendations on the merits of the proposed project, applying the siting criteria set forth in statute and rule; and provide comments and recommendations, if any, on the conditions and provisions of a site permit.
5. Take some other action deemed more appropriate.

F. Administrative Guidance

Include one or more of the following items in the appropriate order(s) issued in this matter:

1. Delegate administrative authority, including timing issues, to the Executive Secretary.

2. Identify Charley Bruce as the Commission's Public Advisor who will facilitate citizen participation in the process.
3. Direct staff to contact state agency representatives regarding their participation in the review proceeding.
4. Request that the Department of Commerce continue to study the issues and indicate during the hearing process through testimony or comment its position on the reasonableness of granting a certificate of need, site permit, and a route permit.
5. Require the Applicant to facilitate in every reasonable way the continued examination of the issues.
6. Require the Applicant to place a print or electronic copy of the certificate of need, site permit, and route permit applications in a government center or public library located closest to the proposed project site.
7. Direct the Applicant to work with Commission staff to arrange for publication of the notices related to public information meetings and public hearings in newspapers of general circulation under the timelines prescribed in rule and statute, that such notice be in the form of visible display ads, and that proof of publication be obtained from the newspapers selected.
8. Take some other action deemed more appropriate.

G. Rule Variances

1. Vary Minn. R. 7849.0200, subp. 5, and extend the 30-day time frame for Commission decision on certificate of need application completeness.
2. Vary Minn. R. 7854.0600, subp. 1, and extend the 30-day time frame for Commission decision on LWECs site permit application completeness.
3. Vary Minn. R. 7854.0800, subp. 1, and extend the 45-day time frame for Commission decision on the issuance of a draft site permit.
4. Take some other action deemed more appropriate.

Staff Recommendation: A1, A2, A3, B1, B2, C2, C4, D2, E1, E4, F (1-7), and G (1-3).

STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION

SITE PERMIT FOR A
LARGE WIND ENERGY CONVERSION SYSTEM

IN

[COUNTY]

ISSUED TO

[PERMITTEE]

PUC DOCKET NO. [Docket Number]

In accordance with the requirements of Minnesota Statutes Chapter 216F and Minnesota Rules Chapter 7854 this site permit is hereby issued to:

[Permittee]

The Permittee is authorized by this site permit to construct and operate a Large Wind Energy Conversion System of up to [number] megawatts (MW) consisting of up to [number] turbines. The Large Wind Energy Conversion System and associated facilities shall be built within the site identified in this permit and as portrayed on the site maps and in compliance with the conditions specified in this permit.

This site permit shall expire thirty (30) years from the date of this approval.

Approved and adopted this ____ day of _____

BY ORDER OF THE COMMISSION

Will Seuffert,
Executive Secretary

To request this document in another format such as large print or audio, call 651.296.0406 (voice). Persons with a hearing or speech impairment may call using their preferred Telecommunications Relay Service or email consumer.puc@state.mn.us for assistance.

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ATTACHMENTS

Attachment 1 – Complaint Handling Procedures for Permitted Energy Facilities

Attachment 2 – Compliance Filing Procedure for Permitted Energy Facilities

Attachment 3 – Site Maps

SAMPLE PERMIT

1 SITE PERMIT

The Minnesota Public Utilities Commission (Commission) hereby issues this site permit to [Permittee] (Permittee) pursuant to Minnesota Statutes Chapter 216F and Minnesota Rules Chapter 7854. This permit authorizes the Permittee to construct and operate the [Project Name], a [number] megawatt (MW) nameplate capacity Large Wind Energy Conversion System (LWECS) and associated facilities in [county name]. The LWECS and associated facilities shall be built within the site identified in this permit and as identified in the attached site maps, hereby incorporated into this document.

1.1 Preemption

Pursuant to Minn. Stat. § 216F.07, this permit shall be the sole site approval required for the location, construction, and operation of this project and this permit shall supersede and preempt all zoning, building, and land use rules, regulations, and ordinances adopted by regional, county, local, and special purpose governments.

2 PROJECT DESCRIPTION

[Provide a description of the project as authorized by the Commission]

2.1 Associated Facilities

[Provide a description of the project as authorized by the Commission]

2.2 Project Location

The project is located in the following:

County	Township Name	Township	Range	Sections

3 DESIGNATED SITE

The site designated by the Commission for the [Project Name] is the site depicted on the site maps attached to this permit. The project area encompasses approximately [number] acres. Upon completion, the project will occupy no more than [number] acres of land converted to

wind turbines and associated facilities approved by this permit. Within the project boundary, the LWECS and associated facilities shall be located on lands for which the Permittee has obtained wind rights.

3.1 Turbine Layout

The preliminary wind turbine and associated facility layouts are shown on the site maps attached to this permit. The preliminary layout represents the approximate location of wind turbines and associated facilities within the project boundary and identifies a layout that seeks to minimize the overall potential human and environmental impacts of the project, which were evaluated in the permitting process.

The final layout depicting the location of each wind turbine and associated facility shall be located within the project boundary. The project boundary serves to provide the Permittee with the flexibility to make minor adjustments to the preliminary layout to accommodate requests by landowners, local government units, federal and state agency requirements, and unforeseen conditions encountered during the detailed engineering and design process. Any modification to the location of a wind turbine and associated facility depicted in the preliminary layout shall be done in such a manner to have comparable overall human and environmental impacts and shall be specifically identified in the site plan pursuant to Section 10.3.

4 SETBACKS AND SITE LAYOUT RESTRICTIONS

4.1 Wind Access Buffer

Wind turbine towers shall not be placed less than five rotor diameters on the prevailing wind directions and three rotor diameters on the non-prevailing wind directions from the perimeter of the property where the Permittee does not hold the wind rights, without the approval of the Commission. This section does not apply to public roads and trails.

4.2 Residences

Wind turbine towers shall not be located closer than 1,000 feet from all residences or the distance required to comply with the noise standards pursuant to Minn. R. 7030.0040, established by the Minnesota Pollution Control Agency (MPCA), whichever is greater.

4.3 Noise

The wind turbine towers shall be placed such that the Permittee shall, at all times, comply with noise standards established by the MPCA as of the date of this permit and at all appropriate locations. The noise standards are found in Minnesota Rules Chapter 7030. Turbine operation shall be modified, or turbines shall be removed from service if necessary to comply with these noise standards. The Permittee or its contractor may install and operate turbines as close as the minimum setback required in this permit, but in all cases shall comply with MPCA noise standards. The Permittee shall be required to comply with this condition with respect to all homes or other receptors in place as of the time of construction, but not with respect to such receptors built after construction of the towers.

4.4 Roads

Wind turbines and meteorological towers shall not be located closer than 250 feet from the edge of the nearest public road right-of-way.

4.5 Public Lands

Wind turbines and associated facilities including foundations, access roads, underground cable, and transformers, shall not be located in publicly-owned lands that have been designated for recreational or conservation purposes, including, but not limited to, Waterfowl Production Areas, State Wildlife Management Areas, Scientific and Natural Areas or county parks, except in the event that the public entity owning those lands enters into a land lease and easement with the Permittee. Wind turbine towers shall also comply with the setbacks of Section 4.1.

4.6 Wetlands

Wind turbines and associated facilities including foundations, access roads, underground cable and transformers, shall not be placed in public waters wetlands, as shown on the public water inventory maps prescribed by Minnesota Statutes Chapter 103G, except that electric collector or feeder lines may cross or be placed in public waters or public waters wetlands subject to permits and approvals by the Minnesota Department of Natural Resources (DNR) and the United States Army Corps of Engineers (USACE), and local units of government as implementers of the Minnesota Wetlands Conservation Act.

4.7 Native Prairie

Wind turbines and associated facilities including foundations, access roads, collector and feeder lines, underground cable, and transformers shall not be placed in native prairie, as defined in

Minn. Stat. § 84.02, subd. 5, unless addressed in a prairie protection and management plan and shall not be located in areas enrolled in the Native Prairie Bank Program. Construction activities, as defined in Minn. Stat. § 216E.01, shall not impact native prairie unless addressed in a Prairie Protection and Management Plan.

The Permittee shall prepare a Prairie Protection and Management Plan in consultation with the DNR if native prairie, as defined in Minn. Stat. § 84.02, subd. 5, is identified within the site boundaries. The Permittee shall file the plan 30 days prior to submitting the site plan required by Section 10.3 of this permit. The plan shall address steps that will be taken to avoid impacts to native prairie and mitigation to unavoidable impacts to native prairie by restoration or management of other native prairie areas that are in degraded condition, by conveyance of conservation easements, or by other means agreed to by the Permittee, the DNR, and the Commission.

4.8 Sand and Gravel Operations

Wind turbines and all associated facilities, including foundations, access roads, underground cable, and transformers shall not be located within active sand and gravel operations, unless otherwise negotiated with the landowner.

4.9 Wind Turbine Towers

Structures for wind turbines shall be self-supporting tubular towers. The towers may be up to [number] meters ([number] feet) above grade measured at hub height. The wind turbine specifications in the table below were provided in the Permittee's [date] [title of Site Permit Application].

Design Feature	[Turbine Name/Type]	[Turbine Name/Type]
Capacity		
Total Height (ground to fully extended blade tip)		
Hub Height		
Rotor Diameter		

4.10 Turbine Spacing

The turbine towers shall be constructed within the site boundary as shown on the site maps. The turbine towers shall be spaced no closer than three rotor diameters in the non-prevailing

wind directions and five rotor diameters on the prevailing wind directions. If required, up to 20 percent of the towers may be sited closer than the above spacing, but the Permittee shall minimize the need to site the turbine towers closer.

4.11 Meteorological Towers

Permanent towers for meteorological equipment shall be free standing. Permanent meteorological towers shall not be placed less than 250 feet from the edge of the nearest public road right-of-way and from the boundary of the Permittee's site control, or in compliance with the county ordinance regulating meteorological towers in the county the tower is built, whichever is more restrictive. Meteorological towers shall be placed on property the Permittee holds the wind or other development rights.

Meteorological towers shall be marked as required by the Federal Aviation Administration (FAA). There shall be no lights on the meteorological towers other than what is required by the FAA. This restriction shall not apply to infrared heating devices used to protect the wind monitoring equipment.

4.12 Aviation

The Permittee shall not place wind turbines or associated facilities in a location that could create an obstruction to navigable airspace of private and public airports (as defined in Minn. R. 8800.0100, subp. 24(a) and 24(b)) in Minnesota, adjacent states, or provinces. The Permittee shall apply the minimum obstruction clearance for private airports pursuant to Minn. R. 8800.1900, subp. 5. Setbacks or other limitations shall be followed in accordance with the Minnesota Department of Transportation (MnDOT), Department of Aviation, and the FAA. The Permittee shall notify owners of all known airports within six miles of the project prior to construction.

4.13 Footprint Minimization

The Permittee shall design and construct the LWECS so as to minimize the amount of land that is impacted by the LWECS. Associated facilities in the vicinity of turbines such as electrical/electronic boxes, transformers, and monitoring systems shall, to the greatest extent feasible, be mounted on the foundations used for turbine towers or inside the towers unless otherwise negotiated with the affected landowner.

5 GENERAL CONDITIONS

The Permittee shall comply with the following conditions during construction and operation of the LWECs and associated facilities over the life of this permit.

5.1 Permit Distribution

Within 30 days of permit issuance, the Permittee shall send a copy of the permit and the complaint procedures to any regional development commission, county auditor and environmental office, and city and township clerk in which any part of the site is located.

Within 30 days of permit issuance, the Permittee shall provide all affected landowners with a copy of this permit and the complaint procedures. In no case shall the landowner receive this site permit and complaint procedures less than five days prior to the start of construction on their property. An affected landowner is any landowner or designee that is within or adjacent to the permitted site.

5.2 Access to Property

The Permittee shall contact landowners prior to entering the property or conducting maintenance within the route, unless otherwise negotiated with the affected landowner.

5.3 Construction and Operation Practices

The Permittee shall comply with the construction practices, operation and maintenance practices, and material specifications described in the [Site Permit Application date and title], and the record of the proceedings unless this permit establishes a different requirement in which case this permit shall prevail.

5.3.1 Field Representative

The Permittee shall designate a field representative responsible for overseeing compliance with the conditions of this permit during construction of the project. This person shall be accessible by telephone or other means during normal business hours throughout site preparation, construction, cleanup, and restoration.

The Permittee shall file with the Commission the name, address, email, phone number, and emergency phone number of the field representative 14 days prior to commencing construction. The Permittee shall provide the field representative's contact information to

affected landowners, residents, local government units and other interested persons 14 days prior to commencing construction. The Permittee may change the field representative at any time upon notice to the Commission, affected landowners, local government units and other interested persons.

5.3.2 Site Manager

The Permittee shall designate a site manager responsible for overseeing compliance with the conditions of this permit during the commercial operation and decommissioning phases of the project. This person shall be accessible by telephone or other means during normal business hours for the life of this permit.

The Permittee shall file with the Commission the name, address, email, phone number, and emergency phone number of the site manager 14 days prior to commercial operation of the facility. The Permittee shall provide the site manager's contact information to affected landowners, residents, local government units and other interested persons 14 days prior to commercial operation of the facility. The Permittee may change the site manager at any time upon notice to the Commission, affected landowners, local government units and other interested persons.

5.3.3 Employee Training and Education of Permit Terms and Conditions

The Permittee shall inform and educate all employees, contractors, and other persons involved in the construction and ongoing operation of the LWECs of the terms and conditions of this permit.

5.3.4 Public Services and Public Utilities

During construction, the Permittee shall minimize any disruption to public services and public utilities. To the extent disruptions to public services or public utilities occur these will be temporary, and the Permittee will restore service promptly. Where any impacts to utilities have the potential to occur the Permittee will work with both landowners and local agencies to determine the most appropriate mitigation measures if not already considered as part of this permit.

5.3.5 Topsoil Protection

The Permittee shall implement measures to protect and segregate topsoil from subsoil on all lands unless otherwise negotiated with the affected landowner.

5.3.6 Soil Compaction

The Permittee shall implement measures to minimize soil compaction of all lands during all phases of the project's life and shall confine compaction to as small an area as practicable.

5.3.7 Soil Erosion and Sediment Control

The Permittee shall implement those erosion prevention and sediment control practices recommended by the MPCA Construction Stormwater Program. If construction of the facility disturbs more than one acre of land, or is sited in an area designated by the MPCA as having potential for impacts to water resources, the Permittee shall obtain a National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) Construction Stormwater Permit from the MPCA that provides for the development of a Stormwater Pollution Prevention Plan (SWPPP) that describes methods to control erosion and runoff.

The Permittee shall implement reasonable measures to minimize erosion and sedimentation during construction and shall employ perimeter sediment controls, protect exposed soil by promptly planting, seeding, using erosion control blankets and turf reinforcement mats, stabilizing slopes, protecting storm drain inlets, protecting soil stockpiles, and controlling vehicle tracking. Contours shall be graded as required so that all surfaces provide for proper drainage, blend with the natural terrain, and are left in a condition that will facilitate re-vegetation and prevent erosion. All areas disturbed during construction of the facilities shall be returned to pre-construction conditions.

5.3.8 Wetlands and Water Resources

Construction in wetland areas shall occur during frozen ground conditions to minimize impacts, to the extent feasible. When construction during winter is not possible, wooden or composite mats shall be used to protect wetland vegetation. Soil excavated from the wetlands and riparian areas shall be contained and managed in accordance with all applicable wetland permits. Wetlands and riparian areas shall be accessed using the shortest route possible in order to minimize travel through wetland areas and prevent unnecessary impacts.

Wetland and water resource areas disturbed by construction activities shall be restored to pre-construction conditions in accordance with the requirements of applicable state and federal

permits or laws and landowner agreements. All requirements of the U.S. Army Corps of Engineers, Minnesota Department of Natural Resources, and local units of government shall be met.

5.3.9 Vegetation Removal

The Permittee shall disturb or clear vegetation on the project site only to the extent necessary to assure suitable access for construction, and for safe operation and maintenance of the project. The Permittee shall minimize the number of trees removed in selecting the site layout specifically preserving to the maximum extent practicable windbreaks, shelterbelts, living snow fences, and other vegetation, to the extent that such actions do not violate sound engineering principles.

5.3.10 Application of Pesticides

The Permittee shall restrict pesticide use to those pesticides and methods of application approved by the Minnesota Department of Agriculture (MDA), DNR, and the U.S. Environmental Protection Agency (EPA). Selective foliage or basal application shall be used when practicable. All pesticides shall be applied in a safe and cautious manner so as not to damage adjacent properties including crops, orchards, tree farms, apiaries, or gardens. The Permittee shall contact the landowner or designee to obtain approval for the use of pesticide at least 14 days prior to any application on their property. The landowner may request that there be no application of pesticides on any part of the site within the landowner's property. The Permittee shall provide notice of pesticide application to affected landowners and known beekeepers operating apiaries within three miles of the project site at least 14 days prior to such application.

5.3.11 Invasive Species

The Permittee shall employ best management practices to avoid the potential introduction and spread of invasive species on lands disturbed by project construction activities. The Permittee shall develop an Invasive Species Prevention Plan to prevent the introduction and spread of invasive species on lands disturbed by project construction activities and file with the Commission 14 days prior to the pre-construction meeting.

5.3.12 Noxious Weeds

The Permittee shall take all reasonable precautions against the spread of noxious weeds during all phases of construction. When utilizing seed to establish temporary and permanent vegetative cover on exposed soil, the Permittee shall select site appropriate seed certified to be free of noxious weeds. The Permittee shall consult with landowners on the selection and use of seed for replanting. To the extent possible, the Permittee shall use native seed mixes.

5.3.13 Public Roads

At least 14 days prior to the pre-construction meeting, the Permittee shall identify all state, county, or township roads that will be used for the project and shall notify the Commission and the state, county, or township governing body having jurisdiction over the roads to determine if the governmental body needs to inspect the roads prior to use of these roads. Where practical, existing roadways shall be used for all activities associated with the project. Where practical, all-weather roads shall be used to deliver cement, turbines, towers, assembled nacelles, and all other heavy components to and from the turbine sites.

The Permittee shall, prior to the use of such roads, make satisfactory arrangements with the appropriate state, county, or township governmental body having jurisdiction over roads to be used for construction of the project, for maintenance and repair of roads that may be subject to increased impacts due to transportation of equipment and project components. The Permittee shall notify the Commission of such arrangements upon request.

5.3.14 Turbine Access Roads

The Permittee shall construct the least number of turbine access roads necessary to safely and efficiently operate the project and satisfy landowner requests. Access roads shall be low profile roads so that farming equipment can cross them and shall be covered with Class 5 gravel or similar material. Access roads shall not be constructed across streams and drainage ditches without required permits and approvals. When access roads are constructed across streams, drainage ways, or drainage ditches, the access roads shall be designed and constructed in a manner so runoff from the upper portions of the watershed can readily flow to the lower portion of the watershed. Any access roads that are constructed across streams or drainage ditches shall be designed and constructed in a manner that maintains existing fish passage. Access roads that are constructed across grassed waterways, which provide drainage for surface waters that are ephemeral in nature, are not required to maintain or provide fish passage. Access roads shall be constructed in accordance with all necessary township, county or state road requirements and permits.

5.3.15 Private Roads

The Permittee shall promptly repair private roads or lanes damaged when moving equipment or when obtaining access to the site, unless otherwise negotiated with the affected landowner.

5.3.16 Archaeological and Historic Resources

The Permittee shall make every effort to avoid impacts to identified archaeological and historic resources when constructing the facility. In the event that a resource is encountered, the Permittee shall consult with the State Historic Preservation Office (SHPO) and the State Archaeologist. Where feasible, avoidance of the resource is required. Where not feasible, mitigation must include an effort to minimize project impacts on the resource consistent with SHPO and State Archaeologist requirements.

Prior to construction, workers shall be trained about the need to avoid cultural properties, how to identify cultural properties, and procedures to follow if undocumented cultural properties, including gravesites, are found during construction. If human remains are encountered during construction, the Permittee shall immediately halt construction at such location and promptly notify local law enforcement and the State Archaeologist. Construction at such location shall not proceed until authorized by local law enforcement and the State Archaeologist.

5.3.17 Interference

At least 14 days prior to the pre-construction meeting, the Permittee shall submit to the Commission an assessment of television and radio signal reception, microwave signal patterns, and telecommunications in the project area. The assessment shall be designed to provide data that can be used in the future to determine whether the turbines and associated facilities are the cause of disruption or interference of television or radio reception, microwave patterns, or telecommunications in the event residents should complain about such disruption or interference after the turbines are placed in operation. The Permittee shall be responsible for alleviating any disruption or interference of these services caused by the turbines or any associated facilities.

The Permittee shall not operate the project so as to cause microwave, television, radio, telecommunications, or navigation interference in violation of Federal Communications Commission (FCC) regulations or other law. In the event the project or its operations cause such interference, the Permittee shall take timely measures necessary to correct the problem.

5.3.18 Livestock Protection

The Permittee shall take precautions to protect livestock during all phases of the project's life.

5.3.19 Fences

The Permittee shall promptly replace or repair all fences and gates removed or damaged during all phases of the project's life unless otherwise negotiated with the affected landowner. When the Permittee installs a gate where electric fences are present, the Permittee shall provide for continuity in the electric fence circuit.

5.3.20 Drainage Tiles

The Permittee shall take into account, avoid, promptly repair or replace all drainage tiles broken or damaged during all phases of project's life unless otherwise negotiated with affected landowner.

5.3.21 Equipment Storage

The Permittee shall not locate temporary equipment staging areas on lands under its control unless negotiated with affected landowner. Temporary equipment staging areas shall not be located in wetlands or native prairie as defined in Sections 4.6 and 4.7.

5.3.22 Restoration

The Permittee shall, as soon as practical following construction of each turbine, restore the areas affected by construction to the condition that existed immediately before construction began, to the extent possible. The time period to complete restoration may be no longer than 12 months after the completion of construction, unless otherwise negotiated with the affected landowner. Restoration shall be compatible with the safe operation, maintenance and inspection of the project. Within 60 days after completion of all restoration activities, the Permittee shall advise the Commission in writing of the completion of such activities.

5.3.23 Cleanup

All waste and scrap that is the product of construction shall be removed from the site and all premises on which construction activities were conducted and properly disposed of upon

completion of each task. Personal litter, including bottles, cans, and paper from construction activities shall be removed on a daily basis.

5.3.24 Pollution and Hazardous Waste

All appropriate precautions to protect against pollution of the environment shall be taken by the Permittee. The Permittee shall be responsible for compliance with all laws applicable to the generation, storage, transportation, clean up and disposal of all wastes generated during construction and operation of the facility.

5.3.25 Damages

The Permittee shall fairly restore or compensate landowners for damage to crops, fences, private roads and lanes, landscaping, drain tile, or other damages sustained during construction.

5.3.26 Public Safety

The Permittee shall provide educational materials to landowners adjacent to the site and, upon request, to interested persons about the project and any restrictions or dangers associated with the project. The Permittee shall also provide any necessary safety measures such as warning signs and gates for traffic control or to restrict public access. The Permittee shall submit the location of all underground facilities, as defined in Minn. Stat. § 216D.01, subd. 11, to Gopher State One Call following the completion of construction at the site.

5.3.27 Tower Identification

All turbine towers shall be marked with a visible identification number.

5.3.28 Federal Aviation Administration Lighting

Towers shall be marked as required by the FAA. There shall be no lights on the towers other than what is required by the FAA. This restriction shall not apply to infrared heating devices used to protect the wind monitoring equipment.

5.4 Communication Cables

The Permittee shall place all communication and supervisory control and data acquisition cables underground and within or adjacent to the land necessary for turbine access roads unless otherwise negotiated with the affected landowner.

5.5 Electrical Collector and Feeder Lines

Collector lines that carry electrical power from each individual transformer associated with a wind turbine to an internal project interconnection point shall be buried underground. Collector lines shall be placed within or adjacent to the land necessary for turbine access roads unless otherwise negotiated with the affected landowner.

Feeder lines that carry power from an internal project interconnection point to the project substation or interconnection point on the electrical grid may be overhead or underground. Feeder line locations shall be negotiated with the affected landowner. Any overhead or underground feeder lines that parallel public roads shall be placed within the public rights-of-way or on private land immediately adjacent to public roads. If overhead feeder lines are located within public rights-of-way, the Permittee shall obtain approval from the governmental unit responsible for the affected right-of-way.

Collector and feeder line locations shall be located in such a manner as to minimize interference with agricultural operations including, but not limited to, existing drainage patterns, drain tile, future tiling plans, and ditches. Safety shields shall be placed on all guy wires associated with overhead feeder lines. The Permittee shall submit the engineering drawings of all collector and feeder lines in the site plan pursuant to Section 10.3.

5.6 Other Requirements

5.6.1 Safety Codes and Design Requirements

The LWECs and associated facilities shall be designed to meet or exceed all relevant local and state codes, Institute of Electrical and Electronics Engineers, Inc. (IEEE) standards, the National Electric Safety Code (NESC), and North American Electric Reliability Corporation (NERC) requirements. The Permittee shall report to the Commission on compliance with these standards upon request.

5.6.2 Other Permits and Regulations

The Permittee shall comply with all applicable state rules and statutes. The Permittee shall obtain all required permits for the project and comply with the conditions of those permits unless those permits conflict with or are preempted by federal or state permits and regulations. A list of the permits known to be required is included in the permit application. The Permittee shall submit a copy of such permits to the Commission upon request.

6 SPECIAL CONDITIONS

Special conditions shall take precedence over other conditions of this permit should there be a conflict.

[Add Special Conditions in accordance with the record of the docket]

7 SURVEYS AND REPORTING

7.1 Biological and Natural Resource Inventories

The Permittee, in consultation with the Commission and the DNR, shall design and conduct pre-construction desktop and field inventories of existing wildlife management areas, scientific and natural areas, recreation areas, native prairies and forests, wetlands, and any other biologically sensitive areas within the project site and assess the presence of state- or federally-listed or threatened species. The results of the inventories shall be filed with the Commission at least 30 days prior to the pre-construction meeting to confirm compliance of conditions in this permit. The Permittee shall file with the Commission, any biological surveys or studies conducted on this project, including those not required under this permit.

7.2 Shadow Flicker

At least 14 days prior to the pre-construction meeting, the Permittee shall provide data on shadow flicker for each residence of non-participating landowners and participating landowners within and outside of the project boundary potentially subject to turbine shadow flicker exposure. Information shall include the results of modeling used, assumptions made, and the anticipated levels of exposure from turbine shadow flicker for each residence. The Permittee shall provide documentation on its efforts to avoid, minimize and mitigate shadow flicker exposure. The results of any modeling shall be filed with the Commission at least 14 days prior to the pre-construction meeting to confirm compliance with conditions of this permit.

7.3 Wake Loss Studies

At least 14 days prior to the pre-construction meeting, the Permittee shall file with the Commission the pre-construction micro-siting analysis leading to the final tower locations and an estimate of total project wake losses. As part of the annual report on project energy production required under Section 10.8 of the permit the Permittee shall file with the Commission any operational wake loss studies conducted on this project during the calendar year preceding the report.

7.4 Noise Studies

The Permittee shall file a proposed methodology for the conduct of a post-construction noise study at least 14 days prior to the pre-construction meeting. The Permittee shall develop the post-construction noise study methodology in consultation with the Department of Commerce. The study must incorporate the Department of Commerce Noise Study Protocol to determine the operating LWECs noise levels at different frequencies and at various distances from the turbines at various wind directions and speeds. The Permittee must conduct the post-construction noise study and file with the Commission the completed post-construction noise study within 18 months of commencing commercial operation.

7.5 Avian and Bat Protection

7.5.1 Avian and Bat Protection Plan

The Permittee shall comply with the provisions of the [date of Avian and Bat Protection Plan] (ABPP) submitted for this project as part of the [date if submitted with Site Permit Application] Application, and revisions resulting from the annual audit of ABPP implementation. The first annual audit and revision will be filed with the Commission 14 days before the preconstruction meeting and revisions should include any updates associated with final construction plans. The ABPP must address steps to be taken to identify and mitigate impacts to avian and bat species during the construction phase and the operation phase of the project. The ABPP shall also include formal and incidental post-construction fatality monitoring, training, wildlife handling, documentation (*e.g.*, photographs), and reporting protocols for each phase of the project.

The Permittee shall, by the 15th of March following each complete or partial calendar year of operation, file with the Commission an annual report detailing findings of its annual audit of ABPP practices. The annual report shall include summarized and raw data of bird and bat fatalities and injuries and shall include bird and bat fatality estimates for the project using agreed upon estimators from the prior calendar year. The annual report shall also identify any

deficiencies or recommended changes in the operation of the project or in the ABPP to reduce avian and bat fatalities and shall provide a schedule for implementing the corrective or modified actions. The Permittee shall provide a copy of the report to the Minnesota Department of Natural Resources and to the U.S. Fish and Wildlife Service (FWS) at the time of filing with the Commission.

7.5.2 Quarterly Incident Reports

The Permittee shall submit quarterly avian and bat reports to the Commission. Quarterly reports are due by the 15th of January, April, July, and October commencing the day following commercial operation and terminating upon the expiration of this permit. Each report shall identify any dead or injured avian and bat species, location of find by turbine number, and date of find for the reporting period in accordance with the reporting protocols. If a dead or injured avian or bat species is found, the report shall describe the potential cause of the occurrence (if known) and the steps taken to address future occurrences. The Permittee shall provide a copy of the report to the DNR and to the FWS at the time of filing with the Commission.

7.5.3 Immediate Incident Reports

The Permittee shall notify the Commission, the FWS, and the DNR within 24 hours of the discovery of any of the following:

- (a) five or more dead or injured birds or bats within a five day reporting period;
- (b) one or more dead or injured state threatened, endangered, or species of special concern;
- (c) one or more dead or injured federally listed species, including species proposed for listing; or
- (d) one or more dead or injured bald or golden eagle(s).

In the event that one of the four discoveries listed above should be made, the Permittee must file with the Commission within seven days, a compliance report identifying the details of what was discovered, the turbine where the discovery was made, a detailed log of agencies and individuals contacted, and current plans being undertaken to address the issue.

7.5.4 Turbine Operational Curtailment

The Permittee shall operate all facility turbines so that all turbines are locked or feathered up to the manufacturer's standard cut-in speed from one-half hour before sunset to one-half hour after sunrise of the following day from April 1 to October 31 of each year of operation. All operating turbines at the facility must be equipped with operational software that is capable of allowing for adjustment of turbine cut-in speeds.

8 AUTHORITY TO CONSTRUCT LWECs

8.1 Wind Rights

At least 14 days prior to the pre-construction meeting, the Permittee shall demonstrate that it has obtained the wind rights and any other rights necessary to construct and operate the project within the boundaries authorized by this permit. Nothing in this permit shall be construed to preclude any other person from seeking a permit to construct a wind energy conversion system in any area within the boundaries of the project covered by this permit if the Permittee does not hold exclusive wind rights for such areas.

8.2 Power Purchase Agreement

In the event the Permittee does not have a power purchase agreement or some other enforceable mechanism for sale of the electricity to be generated by the project at the time this permit is issued, the Permittee shall provide notice to the Commission when it obtains a commitment for purchase of the power. This permit does not authorize construction of the project until the Permittee has obtained a power purchase agreement or some other enforceable mechanism for sale of the electricity to be generated by the project. In the event the Permittee does not obtain a power purchase agreement or some other enforceable mechanism for sale of the electricity to be generated by the project within two years of the issuance of this permit, the Permittee must advise the Commission of the reason for not having such commitment. In such event, the Commission may determine whether this permit should be amended or revoked. No amendment or revocation of this permit may be undertaken except in accordance with Minn. R. 7854.1300.

8.3 Failure to Commence Construction

If the Permittee has not completed the pre-construction surveys required under this permit and commenced construction of the project within two years of the issuance of this permit, the Permittee must advise the Commission of the reason construction has not commenced. In such

event, the Commission shall make a determination as to whether this permit should be amended or revoked. No revocation of this permit may be undertaken except in accordance with applicable statutes and rules, including Minn. R. 7854.1300.

9 COMPLAINT PROCEDURES

Prior to the start of construction, the Permittee shall submit to the Commission the procedures that will be used to receive and respond to complaints. The procedures shall be in accordance with the requirements of Minn. R. 7829.1500 or Minn. R. 7829.1700, and as set forth in the complaint procedures attached to this permit.

Upon request, the Permittee shall assist the Commission with the disposition of unresolved or longstanding complaints. This assistance shall include, but is not limited to, the submittal of complaint correspondence and complaint resolution efforts.

10 COMPLIANCE REQUIREMENTS

Failure to timely and properly make compliance filings required by this permit is a failure to comply with the conditions of this permit. Compliance filings must be electronically filed with the Commission.

10.1 Pre-Construction Meeting

Prior to the start of any construction, the Permittee shall participate in a pre-construction meeting with the Department of Commerce and Commission staff to review pre-construction filing requirements, scheduling, and to coordinate monitoring of construction and site restoration activities. Within 14 days following the pre-construction meeting, the Permittee shall file with the Commission, a summary of the topics reviewed and discussed and a list of attendees. The Permittee shall indicate in the filing the construction start date.

10.2 Pre-Operation Meeting

At least 14 days prior to commercial operation of the facility, the Permittee shall participate in a pre-operation meeting with the Department of Commerce and Commission staff to coordinate field monitoring of operation activities for the project. Within 14 days following the pre-operation meeting, the Permittee shall file with the Commission, a summary of the topics reviewed and discussed and a list of attendees.

10.3 Site Plan

At least 30 days prior to the pre-construction meeting, the Permittee shall provide the Commission, the Department, and the [Environmental department of the county where the site is located] with a site plan that includes specifications and drawings for site preparation and grading; specifications and locations of all turbines and other structures to be constructed including all electrical equipment, collector and feeder lines, pollution control equipment, fencing, roads, and other associated facilities; and procedures for cleanup and restoration. The documentation shall include maps depicting the site boundary and layout in relation to that approved by this permit. The Permittee shall document, through GIS mapping, compliance with the setbacks and site layout restrictions required by this permit, including compliance with the noise standards pursuant to Minnesota Rules Chapter 7030. At the same time, the Permittee shall notify affected landowners and city and town clerks that the site plan is on file with the Commission and the [Environmental department of the county where the site is located]. The Permittee may submit a site plan and engineering drawings for only a portion of the project if the Permittee intends to commence construction on certain parts of the project before completing the site plan and engineering drawings for other parts of the project.

The Permittee may not commence construction until the 30 days has expired or until the Commission has advised the Permittee in writing that it has completed its review of the documents and determined that the planned construction is consistent with this permit. If the Permittee intends to make any significant changes to its site plan or the specifications and drawings after submission to the Commission, the Permittee shall notify the Commission, the Department, the [Environmental department of the county where the site is located], city and town clerks, and the affected landowners at least five days before implementing the changes. No changes shall be made that would be in violation of any of the terms of this permit.

In the event that previously unidentified human and environmental conditions are discovered during construction that by law or pursuant to conditions outlined in this permit would preclude the use of that site as a turbine site, the Permittee shall have the right to move or relocate turbine site. Under these circumstances, the Permittee shall notify the Commission, the Department, the MPCA, the DNR, the [Environmental department of the county where the site is located], city and town clerks, and the affected landowners of any turbines that are to be relocated, and provide the previously unidentified environmental conditions and how the movement of the turbine mitigates the human and environmental impact at least five days before implementing the changes. No changes shall be made that would be in violation of any terms of this permit.

10.4 Status Reports

The Permittee shall file status reports with the Commission on progress regarding site construction. The Permittee need not report more frequently than monthly. Reports shall begin with the commencement of site construction and continue until completion of restoration. Reports shall describe construction activities and progress and activities undertaken in compliance with this permit. Reports shall include text and photographs.

10.5 Labor Statistic Reporting

The Permittee shall file quarterly reports with the Commission within 45 days of the end of the quarter regarding construction workers that participated in the construction of the project. The reports shall (a) detail the Permittee's efforts and the site contractor's efforts to hire Minnesota workers, and (b) provide an account of: (i) the gross number of hours worked by or full-time equivalent workers who are Minnesota residents, as defined in Minn. Stat. § 290.01, subd. 7; (ii) the gross number of hours worked by or full-time equivalent workers who are residents of other states, but maintain a permanent residence within 150 miles of the project; and (iii) the total gross hours worked or total full-time equivalent workers. Permittee shall work with its contractor to determine the suitable reporting metric. The report may not include personally identifiable data.

10.6 In-Service Date

At least three days before the facility is to be placed into service, the Permittee shall notify the Commission of the date on which the facility will be placed into service and the date on which construction was completed.

10.7 As-Builts

Within 90 days after completion of construction, the Permittee shall submit copies of all final as-built plans and specifications developed during the project.

10.8 GPS Data

Within 90 days after completion of construction, the Permittee shall submit to the Commission, in the format requested by the Commission, geo-spatial information (*e.g.*, ArcGIS compatible map files, GPS coordinates, associated database of characteristics) for all structures associated with the LWECs.

10.9 Project Energy Production

The Permittee shall, by February 1st following each complete or partial year of project operation, file a report with the Commission on the monthly energy production of the project including:

- (a) the installed nameplate capacity of the permitted project;
- (b) the total monthly energy generated by the project in MW hours;
- (c) the monthly capacity factor of the project;
- (d) yearly energy production and capacity factor for the project;
- (e) the operational status of the project and any major outages, major repairs, or turbine performance improvements occurring in the previous year; and
- (f) any other information reasonably requested by the Commission.

This information shall be considered public and must be filed electronically.

10.10 Wind Resource Use

The Permittee shall, by February 1st following each complete or partial calendar year of operation, file with the Commission the average monthly and average annual wind speed collected at one permanent meteorological tower during the preceding year or partial year of operation. This information shall be considered public and must be filed electronically.

10.11 Emergency Response

The Permittee shall prepare an Emergency Response Plan in consultation with the emergency responders having jurisdiction over the facility prior to project construction. The Permittee shall submit a copy of the plan, along with any comments from emergency responders, to the Commission at least 14 days prior to the pre-construction meeting and a revised plan, if any, at least 14 days prior to the pre-operation meeting. The Permittee shall provide as a compliance filing confirmation that the Emergency Response Plan was provided to the emergency responders and Public Safety Answering Points (PSAP) with jurisdiction over the facility prior to

commencement of construction. The Permittee shall obtain and register the facility address or other location indicators acceptable to the emergency responders and PSAP having jurisdiction over the facility.

10.12 Extraordinary Events

Within 24 hours of discovery of an occurrence, the Permittee shall notify the Commission of any extraordinary event. Extraordinary events include but shall not be limited to: fires, tower collapse, thrown blade, acts of sabotage, collector or feeder line failure, and injured worker or private person. The Permittee shall, within 30 days of the occurrence, file a report with the Commission describing the cause of the occurrence and the steps taken to avoid future occurrences.

11 DECOMMISSIONING, RESTORATION, AND ABANDONMENT

11.1 Decommissioning Plan

The Permittee shall submit a decommissioning plan to the Commission at least fourteen 14 days prior to the pre-operation meeting and provide updates to the plan every five years thereafter. The plan shall provide information identifying all surety and financial securities established for decommissioning and site restoration of the project in accordance with the requirements of Minn. R. 7854.0500, subp. 13. The decommissioning plan shall provide an itemized breakdown of costs of decommissioning all project components, which shall include labor and equipment. The plan shall identify cost estimates for the removal of turbines, turbine foundations, underground collection cables, access roads, crane pads, substations, and other project components. The plan may also include anticipated costs for the replacement of turbines or repowering the project by upgrading equipment.

The Permittee shall also submit the decommissioning plan to the local unit of government having direct zoning authority over the area in which the project is located. The Permittee shall ensure that it carries out its obligations to provide for the resources necessary to fulfill its requirements to properly decommission the project at the appropriate time. The Commission may at any time request the Permittee to file a report with the Commission describing how the Permittee is fulfilling this obligation.

11.2 Site Restoration

Upon expiration of this permit, or upon earlier termination of operation of the project, or any turbine within the project, the Permittee shall have the obligation to dismantle and remove from the site all towers, turbine generators, transformers, overhead and underground cables and lines, foundations, buildings, and ancillary equipment to a depth of four feet. Any agreement for removal to a lesser depth or no removal shall be recorded with the county and shall show the locations of all such foundations. To the extent feasible, the Permittee shall restore and reclaim the site to pre-project conditions, including topography and topsoil conditions. All access roads shall be removed unless written approval is given by the affected landowner requesting that one or more roads, or portions thereof, be retained. All such agreements between the Permittee and the affected landowner shall be submitted to the Commission prior to completion of restoration activities. The site shall be restored in accordance with the requirements of this condition within 18 months of termination.

11.3 Abandoned Turbines

The Permittee shall advise the Commission of any turbines that are abandoned prior to termination of operation of the project. The project, or any turbine within the project, shall be considered abandoned after one year without energy production and the land restored pursuant to Section 11.2 unless a plan is submitted to and approved by the Commission outlining the steps and schedule for returning the project, or any turbine within the project, to service.

12 COMMISSION AUTHORITY AFTER PERMIT ISSUANCE

12.1 Final Boundaries

After completion of construction, the Commission shall determine the need to adjust the final boundaries of the site required for this project in accordance with Minn. R. 7854.1300, subp. 1.

12.2 Expansion of Site Boundaries

No expansion of the site boundaries described in this permit shall be authorized without the approval of the Commission. The Permittee may submit to the Commission a request for a change in the boundaries of the site for the project. The Commission will respond to the requested change in accordance with applicable statutes and rules.

12.3 Periodic Review

The Commission shall initiate a review of this permit and the applicable conditions at least once every five years. The purpose of the periodic review is to allow the Commission, the Permittee, and other interested persons an opportunity to consider modifications in the conditions of this permit. No modification may be made except in accordance with applicable statutes and rules.

12.4 Modification of Conditions

After notice and opportunity for hearing, this permit may be modified or amended for cause, including but not limited to the following:

- (a) violation of any condition in this permit;
- (b) endangerment of human health or the environment by operation of the project; or
- (c) existence of other grounds established by rule.

12.5 More Stringent Rules

The issuance of this permit does not prevent the future adoption by the Commission of rules or orders more stringent than those now in existence and does not prevent the enforcement of these more stringent rules and orders against the Permittee.

12.6 Right of Entry

The Permittee shall allow Commission designated representatives to perform the following, upon reasonable notice, upon presentation of credentials and at all times in compliance with the Permittee's site safety standards:

- (a) To enter upon the facilities easement of the property for the purpose of obtaining information, examining records, and conducting surveys or investigations.
- (b) To bring such equipment upon the facilities easement of the property as is necessary to conduct such surveys and investigations.
- (c) To sample and monitor upon the facilities easement of the property.
- (d) To examine and copy any documents pertaining to compliance with the conditions of this permit.

12.7 Proprietary Information

Certain information required to be filed with the Commission under this permit may constitute trade secret information or other type of proprietary information under the Data Practices Act or other law. The Permittee must satisfy requirements of applicable law to obtain the protection afforded by the law.

13 PERMIT AMENDMENT

This permit may be amended at any time by the Commission in accordance with Minn. R. 7854.1300, subp. 2. Any person may request an amendment of the conditions of this permit by submitting a request to the Commission in writing describing the amendment sought and the reasons for the amendment. The Commission will mail notice of receipt of the request to the Permittee. The Commission may amend the conditions after affording the Permittee and interested persons such process as is required.

14 TRANSFER OF PERMIT

The Permittee may request at any time that the Commission transfer this permit to another person or entity. The Permittee shall provide the name and description of the person or entity to whom the permit is requested to be transferred, the reasons for the transfer, a description of the facilities affected, and the proposed effective date of the transfer. The person to whom the permit is to be transferred shall provide the Commission with such information as the Commission shall require to determine whether the new permittee can comply with the conditions of the permit. The Commission may authorize transfer of the permit after affording the Permittee, the new permittee, and interested persons such process as is required. The Commission may impose additional conditions on any new permittee as part of the approval of the transfer.

Within 20 days after the date of the notice provided in Section 10.5, the Permittee shall file a notice describing its ownership structure, identifying, as applicable:

- (a) the owner(s) of the financial and governance interests of the Permittee;
- (b) the owner(s) of the majority financial and governance interests of the Permittee's owners; and

- (c) the Permittee's ultimate parent entity (meaning the entity which is not controlled by any other entity).

The Permittee shall immediately notify the Commission of:

- (a) a change in owner(s) of the majority* financial or governance interests in the Permittee;
- (b) a change in owner(s) of the majority* financial or governance interests of the Permittee's owners; or
- (c) a sale which changes the parent entity of the Permittee.

**When there are only co-equal 50/50 percent interests, any change shall be considered a change in majority interest.*

The Permittee shall notify the Commission of:

- (a) the sale of a parent entity or a majority interest in the Permittee;
- (b) the sale of a majority interest of the Permittee's owners or majority interest of the owners; or
- (c) a sale which changes the entity with ultimate control over the Permittee.

15 REVOCATION OR SUSPENSION OF PERMIT

The Commission may take action to suspend or revoke this permit upon the grounds that:

- (a) a false statement was knowingly made in the application or in accompanying statements or studies required of the Permittee, and a true statement would have warranted a change in the Commission's findings;
- (b) there has been a failure to comply with material conditions of this permit, or there has been a failure to maintain health and safety standards;
- (c) there has been a material violation of a provision of an applicable statute, rule, or an order of the Commission; or

(d) the Permittee has filed a petition with the Commission requesting that the permit be revoked or terminated.

In the event the Commission determines that it is appropriate to consider revocation or suspension of this permit, the Commission shall proceed in accordance with the requirements of Minn. R. 7854.1300 to determine the appropriate action. Upon a finding of any of the above, the Commission may require the Permittee to undertake corrective measures in lieu of having this permit suspended or revoked.

16 EXPIRATION DATE

This permit shall expire 30 years after the date this permit was approved and adopted.

SAMPLE PERMIT

STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION

ROUTE PERMIT FOR A
HIGH-VOLTAGE TRANSMISSION LINE AND ASSOCIATED FACILITIES

IN

[COUNTY]

ISSUED TO

[PERMITTEE]

PUC DOCKET NO. [Docket Number]

In accordance with the requirements of Minnesota Statutes Chapter 216E and Minnesota Rules Chapter 7850 this route permit is hereby issued to:

[Permittee]

[Permittee] is authorized by this route permit to construct and operate [Provide a description of the project authorized by the Minnesota Public Utilities Commission].

The high-voltage transmission line and associated facilities shall be built within the route identified in this permit and as portrayed on the route maps and in compliance with the conditions specified in this permit.

Approved and adopted this ____ day of _____

BY ORDER OF THE COMMISSION

Daniel P. Wolf,
Executive Secretary

To request this document in another format such as large print or audio, call 651.296.0406 (voice). Persons with a hearing or speech impairment may call using their preferred Telecommunications Relay Service or email consumer.puc@state.mn.us for assistance.

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ATTACHMENTS

Attachment 1 – Complaint Handling Procedures for Permitted Energy Facilities

Attachment 2 – Compliance Filing Procedure for Permitted Energy Facilities

Attachment 3 – Route Maps

1 ROUTE PERMIT

The Minnesota Public Utilities Commission (Commission) hereby issues this route permit to [Permittee Name] (Permittee) pursuant to Minnesota Statutes Chapter 216E and Minnesota Rules Chapter 7850. This permit authorizes the [Permittee Name] to construct and operate an [Provide a description of the project as authorized by the Minnesota Public Utilities Commission], and as identified in the attached route maps, hereby incorporated into this document.

1.1 Preemption

Pursuant to Minn. Stat. § 216E.10, this permit shall be the sole route approval required to be obtained by the Permittee for construction of the transmission facilities and this permit shall supersede and preempt all zoning, building, or land use rules, regulations, or ordinances promulgated by regional, county, local and special purpose governments.

2 PROJECT DESCRIPTION

[Provide a description of the project as authorized by the Minnesota Public Utilities Commission]

2.1 Project Location

[Describe the location of the project including details such as the county, state, city, and townships, as appropriate]

County	Township Name	Township	Range	Section

2.2 Substations and Associated Facilities

[Provide a detailed description of the associated facilities and substations as authorized by the Commission]

2.3 Structures

[Provide a detailed description of the structures authorized by the Commission]

2.4 Conductors

[Provide a detailed description of the conductors authorized by the Commission]

The table below details specifics on the various structure and conductor types as presented in the route permit application.

Line Type	Conductor	Structure		Foundation	Height	Span
		Type	Material			

3 DESIGNATED ROUTE

The route designated by the Commission in this permit is the route described below and shown on the route maps attached to this permit. The route is generally described as follows:

[Provide detailed description of the authorized route including the route widths and any other specifics relevant to each segment. Also include a reference to the relevant route map to be attached to the permit.]

The identified route widths on the attached route maps provide the Permittee with flexibility for minor adjustments of the alignment or right-of-way to accommodate landowner requests and unforeseen conditions. The final alignment (*i.e.*, permanent and maintained rights-of-way) must be located within this designated route unless otherwise authorized by this permit or the Commission.

4 RIGHT-OF-WAY

This Permit authorizes the Permittee to obtain a new permanent right-of-way for the transmission line up to [number] in width. The permanent right-of-way is typically [number] feet on both sides of the transmission line measured from its centerline.

The Project's anticipated alignment is intended to minimize potential impacts relative to criteria identified in Minn. R. 7850.4100. The actual right-of-way will generally conform to the anticipated alignment identified on the Route Maps, unless changes are requested by individual landowners and agreed to by the Permittee or for unforeseen conditions that are encountered or as otherwise provided for by this permit.

Any right-of-way modifications within the designated route shall be located so as to have comparable overall impacts relative to the factors in Minn. R. 7850.4100, as does the right-of-way identified in this permit, and shall be specifically identified and documented in and approved as part of the plan and profile submitted pursuant to Section 9.1 of this permit.

Where the transmission line parallels existing highway and other road rights-of-way, the transmission line right-of-way shall occupy and utilize the existing right-of-way to the maximum extent possible; consistent with the criteria in Minn. R. 7850.4100 and the other requirements of this permit; and for highways under the jurisdiction of the Minnesota Department of Transportation, the procedures for accommodating utilities in trunk highway rights-of-way.

4.1 Route Width Variations

Route width variations may be allowed to accommodate the potential site-specific constraints listed below. These constraints may arise from any of the following:

1. Unforeseen circumstances encountered during the detailed engineering and design process.
2. Federal or state agency requirements.
3. Existing infrastructure within the route, including but not limited to railroads, natural gas and liquid pipelines, high voltage electric transmission lines, or sewer and water lines.

Any alignment modifications arising from these site-specific constraints that would result in right-of-way placement outside of the designated route shall be specifically reviewed by the Commission under Minn. R. 7850.4900.

5 GENERAL CONDITIONS

The Permittee shall comply with the following conditions during construction and operation of the transmission line and associated facilities over the life of this permit.

5.1 Permit Distribution

Within 30 days of permit issuance, the Permittee shall send a copy of the permit and the complaint procedures to any regional development commission, county auditor and environmental office, and city and township clerk in which any part of the site is located.

Within 30 days of permit issuance, the Permittee shall provide all affected landowners with a copy of this permit and the complaint procedures. In no case shall the landowner receive this route permit and complaint procedures less than five days prior to the start of construction on their property. An affected landowner is any landowner or designee that is within or adjacent to the permitted route.

At the time of first contact, the Permittee shall also provide all affected landowners with a copy of the Department of Commerce's *Rights-of-Way and Easements for Energy Facility Construction and Operation Fact Sheet*.¹

5.2 Access to Property

The Permittee shall contact landowners prior to entering the property or conducting maintenance within the route, unless otherwise negotiated with the affected landowner.

5.3 Construction and Operation Practices

The Permittee shall follow those specific construction practices and material specifications described in described in the [Route Permit Application date and title], and the record of the proceedings unless this permit establishes a different requirement in which case this permit shall prevail.

5.3.1 Field Representative

The Permittee shall designate a field representative responsible for overseeing compliance with the conditions of this permit during construction of the project. This person shall be accessible by telephone or other means during normal business hours throughout site preparation, construction, cleanup, and restoration.

The Permittee shall file with the Commission the name, address, email, phone number, and emergency phone number of the field representative 14 days prior to commencing construction. The Permittee shall provide the field representative's contact information to affected landowners, residents, local government units and other interested persons 14 days prior to commencing construction. The Permittee may change the field representative at any time upon notice to the Commission, affected landowners, local government units and other interested persons.

¹ http://mn.gov/commerce/energyfacilities/documents/Easements%20Fact%20Sheet_08.05.14.pdf

5.3.2 Employee Training and Education of Permit Terms and Conditions

The Permittee shall inform and educate all employees, contractors, and other persons involved in the construction and ongoing operation of the transmission line of the terms and conditions of this permit.

5.3.3 Public Services and Public Utilities

During construction, the Permittee shall minimize any disruption to public services and public utilities. To the extent disruptions to public services or public utilities occur these will be temporary, and the Permittee will restore service promptly. Where any impacts to utilities have the potential to occur the Permittee will work with both landowners and local agencies to determine the most appropriate transmission structure placement.

The Permittee shall consult with landowners, townships, cities, and counties along the route and consider concerns regarding tree clearing, distance from existing structures, drain tiles, pole depth and placement in relationship to existing roads and road expansion plans.

The Permittee shall cooperate with county and city road authorities to develop appropriate signage and traffic management during construction.

5.3.4 Temporary Work Space

The Permittee shall limit temporary easements to special construction access needs and additional staging or lay-down areas required outside of the authorized right-of-way. Temporary space shall be selected to limit the removal and impacts to vegetation. Temporary easements outside of the authorized transmission line right-of-way will be obtained from affected landowners through rental agreements and are not provided for in this permit.

Temporary driveways may be constructed between the roadway and the structures to minimize impact using the shortest route possible. Construction mats should be used to minimize impacts on access paths and construction areas.

5.3.5 Noise

The Permittee shall comply with noise standards established under Minn. R. 7030.0100 to 7030.0080, at all times at all appropriate locations during operation of the facility. Construction

and maintenance activities shall be limited to daytime working hours to the extent practicable to ensure nighttime noise level standards will not be exceeded.

5.3.6 Aesthetics

The Permittee shall consider input pertaining to visual impacts from landowners and land management agencies prior to final location of structures, rights-of-way, and other areas with the potential for visual disturbance. Care shall be used to preserve the natural landscape, minimize tree removal and prevent any unnecessary destruction of the natural surroundings in the vicinity of the project during construction and maintenance. The Permittee shall work with landowners to locate the high-voltage transmission line to minimize the loss of agricultural land, forest, and wetlands, and to avoid homes and farmsteads. Structures shall be placed at a distance, consistent with sound engineering principles and system reliability criteria, from intersecting roads, highways, or trail crossings.

5.3.7 Soil Erosion and Sediment Control

The Permittee shall implement those erosion prevention and sediment control practices recommended by the Minnesota Pollution Control Agency (MPCA) Construction Stormwater Program. If construction of the facility disturbs more than one acre of land, or is sited in an area designated by the MPCA as having potential for impacts to water resources, the Permittee shall obtain a National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) Construction Stormwater Permit from the MPCA that provides for the development of a Stormwater Pollution Prevention Plan (SWPPP) that describes methods to control erosion and runoff.

The Permittee shall implement reasonable measures to minimize erosion and sedimentation during construction and shall employ perimeter sediment controls, protect exposed soil by promptly planting, seeding, using erosion control blankets and turf reinforcement mats, stabilizing slopes, protecting storm drain inlets, protecting soil stockpiles, and controlling vehicle tracking. Contours shall be graded as required so that all surfaces provide for proper drainage, blend with the natural terrain, and are left in a condition that will facilitate re-vegetation and prevent erosion. All areas disturbed during construction of the facilities shall be returned to pre-construction conditions.

5.3.8 Wetlands and Water Resources

Wetland impact avoidance measures that shall be implemented during design and construction of the transmission line will include spacing and placing the power poles at variable distances to span and avoid wetlands, watercourses, and floodplains. Unavoidable wetland impacts as a result of the placement of poles shall be limited to the immediate area around the poles. To minimize impacts, construction in wetland areas shall occur during frozen ground conditions where practicable and shall be according to permit requirements by the applicable permitting authority. When construction during winter is not possible, wooden or composite mats shall be used to protect wetland vegetation. Soil excavated from the wetlands and riparian areas shall be contained and not placed back into the wetland or riparian area. Wetlands and riparian areas shall be accessed using the shortest route possible in order to minimize travel through wetland areas and prevent unnecessary impacts. No staging or stringing set up areas shall be placed within or adjacent to wetlands or water resources, as practicable. Power pole structures shall be assembled on upland areas before they are brought to the site for installation.

Wetland and water resource areas disturbed by construction activities shall be restored to pre-construction conditions in accordance with the requirements of applicable state and federal permits or laws and landowner agreements. All requirements of the U.S. Army Corps of Engineers (USACE), Minnesota Department of Natural Resources (DNR), and local units of government shall be met.

5.3.9 Vegetation Management

The Permittee shall minimize the number of trees to be removed in selecting the right-of-way specifically preserving to the maximum extent practicable windbreaks, shelterbelts, living snow fences, and vegetation in areas such as trail and stream crossings where vegetative screening may minimize aesthetic impacts, to the extent that such actions do not violate sound engineering principles or system reliability criteria.

Tall growing species located within the transmission line right-of-way that endanger the safe and reliable operation of the transmission facility will be removed by the Permittee. The Permittee shall leave undisturbed, to the extent possible, existing low growing species in the right-of-way or replant such species in the right-of-way to blend the difference between the right-of-way and adjacent areas, to the extent that the low growing vegetation that will not pose a threat to the transmission facility or impede construction.

5.3.10 Application of Pesticides

The Permittee shall restrict pesticide use to those pesticides and methods of application approved by the Minnesota Department of Agriculture, DNR, and the U.S. Environmental Protection Agency. Selective foliage or basal application shall be used when practicable. All pesticides shall be applied in a safe and cautious manner so as not to damage adjacent properties including crops, orchards, tree farms, apiaries, or gardens. The Permittee shall contact the landowner or designee to obtain approval for the use of pesticide at least 14 days prior to any application on their property. The landowner may request that there be no application of pesticides on any part of the site within the landowner's property. The Permittee shall provide notice of pesticide application to affected landowners and known beekeepers operating apiaries within three miles of the project site at least 14 days prior to such application.

5.3.11 Invasive Species

The Permittee shall employ best management practices to avoid the potential introduction and spread of invasive species on lands disturbed by project construction activities. The Permittee shall develop an Invasive Species Prevention Plan to prevent the introduction and spread of invasive species on lands disturbed by project construction activities and file with the Commission 30 days prior to the pre-construction meeting.

5.3.12 Noxious Weeds

The Permittee shall take all reasonable precautions against the spread of noxious weeds during all phases of construction. When utilizing seed to establish temporary and permanent vegetative cover on exposed soil the Permittee shall select site appropriate seed certified to be free of noxious weeds. To the extent possible, the Permittee shall use native seed mixes. The Permittee shall consult with landowners on the selection and use of seed for replanting.

5.3.13 Roads

The Permittee shall advise the appropriate governing bodies having jurisdiction over all state, county, city or township roads that will be used during the construction phase of the project. Where practical, existing roadways shall be used for all activities associated with construction of the facility. Oversize or overweight loads associated with the facility shall not be hauled across public roads without required permits and approvals.

The Permittee shall construct the least number of site access roads it can. Access roads shall not be constructed across streams and drainage ways without the required permits and

approvals. Access roads shall be constructed in accordance with all necessary township, county or state road requirements and permits.

The Permittee shall promptly repair private roads or lanes damaged when moving equipment or when accessing construction workspace, unless otherwise negotiated with the affected landowner.

5.3.14 Archaeological and Historic Resources

The Permittee shall make every effort to avoid impacts to identified archaeological and historic resources when constructing the transmission facility. In the event that a resource is encountered, the Permittee shall consult with the State Historic Preservation Office and the State Archaeologist. Where feasible, avoidance of the resource is required. Where not feasible, mitigation must include an effort to minimize project impacts on the resource consistent with State Historic Preservation Office and State Archaeologist requirements.

Prior to construction, workers shall be trained about the need to avoid cultural properties, how to identify cultural properties, and procedures to follow if undocumented cultural properties, including gravesites, are found during construction. If human remains are encountered during construction, the Permittee shall immediately halt construction and promptly notify local law enforcement and the State Archaeologist. Construction at such location shall not proceed until authorized by local law enforcement or the State Archaeologist.

5.3.15 Avian Protection

The Permittee in cooperation with the DNR shall identify areas of the project where bird flight diverters will be incorporated into the transmission line design to prevent large avian collisions attributed to visibility issues. Standard transmission design shall incorporate adequate spacing of conductors and grounding devices in accordance with Avian Power Line Interaction Committee standards to eliminate the risk of electrocution to raptors with larger wingspans that may simultaneously come in contact with a conductor and grounding devices.

5.3.16 Restoration

The Permittee shall restore the right-of-way, temporary work spaces, access roads, abandoned right-of-way, and other public or private lands affected by construction of the transmission line. Restoration within the right-of-way must be compatible with the safe operation, maintenance, and inspection of the transmission line. Within 60 days after completion of all restoration

activities, the Permittee shall advise the Commission in writing of the completion of such activities.

5.3.17 Cleanup

All waste and scrap that is the product of construction shall be removed from the right-of-way and all premises on which construction activities were conducted and properly disposed of upon completion of each task. Personal litter, including bottles, cans, and paper from construction activities shall be removed on a daily basis.

5.3.18 Pollution and Hazardous Wastes

All appropriate precautions to protect against pollution of the environment must be taken by the Permittee. The Permittee shall be responsible for compliance with all laws applicable to the generation, storage, transportation, clean up and disposal of all wastes generated during construction and restoration of the right-of-way.

5.3.19 Damages

The Permittee shall fairly restore or compensate landowners for damage to crops, fences, private roads and lanes, landscaping, drain tile, or other damages sustained during construction.

5.4 Electrical Performance Standards

5.4.1 Grounding

The Permittee shall design, construct, and operate the transmission line in a manner so that the maximum induced steady-state short-circuit current shall be limited to five milliamperes root mean square (rms) alternating current between the ground and any non-stationary object within the right-of-way, including but not limited to large motor vehicles and agricultural equipment. All fixed metallic objects on or off the right-of-way, except electric fences that parallel or cross the right-of-way, shall be grounded to the extent necessary to limit the induced short-circuit current between ground and the object so as not to exceed one milliamperes rms under steady state conditions of the transmission line and to comply with the ground fault conditions specified in the National Electric Safety Code (NESC). The Permittee shall address and rectify any induced current problems that arise during transmission line operation.

5.4.2 Electric Field

The transmission line shall be designed, constructed, and operated in such a manner that the electric field measured one meter above ground level immediately below the transmission line shall not exceed 8.0 kV/m rms.

5.4.3 Interference with Communication Devices

If interference with radio or television, satellite, wireless internet, GPS-based agriculture navigation systems or other communication devices is caused by the presence or operation of the transmission line, the Permittee shall take whatever action is necessary to restore or provide reception equivalent to reception levels in the immediate area just prior to the construction of the line.

5.5 Other Requirements

5.5.1 Safety Codes and Design Requirements

The transmission line and associated facilities shall be designed to meet or exceed all relevant local and state codes, the NESC, and North American Electric Reliability Corporation (NERC) requirements. This includes standards relating to clearances to ground, clearance to crossing utilities, clearance to buildings, strength of materials, clearances over roadways, right-of-way widths, and permit requirements. The transmission line shall be equipped with protective devices to safeguard the public if an accident occurs.

5.5.2 Other Permits and Regulations

The Permittee shall comply with all applicable state rules and statutes. The Permittee shall obtain all required permits for the project and comply with the conditions of those permits unless those permits conflict with or are preempted by federal or state permits and regulations. A list of the permits known to be required is included in the permit application. The Permittee shall submit a copy of such permits to the Commission upon request.

6 SPECIAL CONDITIONS

Special conditions shall take precedence over other conditions of this permit should there be a conflict.

[Describe any special conditions]

Examples of special conditions included in permits:

- Avian Mitigation Plan
- Environmental Control Plan
- Agriculture Mitigation Plan
- Vegetation Management Plan
- Property Restrictions
- Minnesota Department of Natural Resources Requirements
- Minnesota Pollution Control Requirements
- Minnesota State Historical Preservation Office Requirements
- Minnesota Department of Transportation Requirements

7 DELAY IN CONSTRUCTION

If the Permittee has not commenced construction or improvement of the route within four years after the date of issuance of this permit the Permittee shall file a report on the failure to construct and the Commission shall consider suspension of the permit in accordance with Minn. R. 7850.4700.

8 COMPLAINT PROCEDURES

Prior to the start of construction, the Permittee shall submit to the Commission the procedures that will be used to receive and respond to complaints. The procedures shall be in accordance with the requirements of Minn. R. 7829.1500 or Minn. R. 7829.1700, and as set forth in the complaint procedures attached to this permit.

Upon request, the Permittee shall assist the Commission with the disposition of unresolved or longstanding complaints. This assistance shall include, but is not limited to, the submittal of complaint correspondence and complaint resolution efforts.

9 COMPLIANCE REQUIREMENTS

Failure to timely and properly make compliance filings required by this permit is a failure to comply with the conditions of this permit. Compliance filings must be electronically filed with the Commission.

9.1 Plan and Profile

At least 30 days before right-of-way preparation for construction begins on any segment or portion of the project, the Permittee shall provide the Commission with a plan and profile of the right-of-way and the specifications and drawings for right-of-way preparation, construction, structure specifications and locations, cleanup, and restoration for the transmission line. The documentation shall include maps depicting the plan and profile including the right-of-way, alignment, and structures in relation to the route and alignment approved per this permit.

The Permittee may not commence construction until the 30 days has expired or until the Commission has advised the Permittee in writing that it has completed its review of the documents and determined that the planned construction is consistent with this permit. If the Permittee intends to make any significant changes in its plan and profile or the specifications and drawings after submission to the Commission, the Permittee shall notify the Commission at least five days before implementing the changes. No changes shall be made that would be in violation of any of the terms of this permit.

9.2 Status Reports

The Permittee shall report to the Commission on progress during finalization of the route, design of structures, and construction of the transmission line. The Permittee need not report more frequently than monthly. Reports shall begin with the submittal of the plan and profile for the project and continue until completion of restoration. Reports shall describe construction activities and progress and activities undertaken in compliance with this permit. Reports shall include text and photographs.

9.3 In-Service Date

At least three days before the facility is to be placed into service, the Permittee shall notify the Commission of the date on which the facility will be placed into service and the date on which construction was completed.

9.4 As-Builts

Within 90 days after completion of construction, the Permittee shall submit copies of all final as-built plans and specifications developed during the project.

9.5 GPS Data

Within 90 days after completion of construction, the Permittee shall submit to the Commission, in the format requested by the Commission, geo-spatial information (e.g., ArcGIS compatible map files, GPS coordinates, associated database of characteristics) for all structures associated with the transmission line and each substation connected.

9.6 Right of Entry

The Permittee shall allow Commission designated representatives to perform the following, upon reasonable notice, upon presentation of credentials and at all times in compliance with the Permittee's site safety standards:

- (a) To enter upon the facilities easement of the property for the purpose of obtaining information, examining records, and conducting surveys or investigations.
- (b) To bring such equipment upon the facilities easement of the property as is necessary to conduct such surveys and investigations.
- (c) To sample and monitor upon the facilities easement of the property.
- (d) To examine and copy any documents pertaining to compliance with the conditions of this permit.

10 PERMIT AMENDMENT

This permit may be amended at any time by the Commission. Any person may request an amendment of the conditions of this permit by submitting a request to the Commission in writing describing the amendment sought and the reasons for the amendment. The Commission will mail notice of receipt of the request to the Permittee. The Commission may amend the conditions after affording the Permittee and interested persons such process as is required.

11 TRANSFER OF PERMIT

The Permittee may request at any time that the Commission transfer this permit to another person or entity. The Permittee shall provide the name and description of the person or entity to whom the permit is requested to be transferred, the reasons for the transfer, a description of the facilities affected, and the proposed effective date of the transfer. The person to whom the permit is to be transferred shall provide the Commission with such information as the

Commission shall require to determine whether the new Permittee can comply with the conditions of the permit. The Commission may authorize transfer of the permit after affording the Permittee, the new Permittee, and interested persons such process as is required.

12 REVOCATION OR SUSPENSION OF THE PERMIT

The Commission may initiate action to revoke or suspend this permit at any time. The Commission shall act in accordance with the requirements of Minn. R. 7850.5100, to revoke or suspend the permit.

SAMPLE PERMIT