

# Minnesota Public Utilities Commission

## Staff Briefing Papers

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Meeting Date: **June 25, 2015** ..... Agenda Item # 1, 2, 3, and 4\*

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Company:	EcoHarmony West Wind, LLC	Docket:	IP6688/WS-08-973
	Morgan Wind Acquisition Group, LLC		IP6723/WS-09-360
	West Stevens Wind, LLC		IP6824/WS-09-830
	Paynesville Wind, LLC		IP6830/WS-10-49

In the Matter of the Application of EcoHarmony West Wind, LLC for a Large Energy Conversion System Site Permit for the 116 (280) Megawatt EcoHarmony West Wind Project in Fillmore County.

In the Matter of the Application of Morgan Wind Acquisition Group, LLC for a Large Energy Conversion System Site Permit for the 31.5 Megawatt Morgan Wind Project in Redwood and Brown Counties

In the Matter of the Application of West Stevens Wind, LLC for a Large Energy Conversion System Site Permit for the 20 Megawatt West Stevens Wind Project in Stevens County

In the Matter of the Application of Paynesville Wind, LLC for a Large Energy Conversion System Site Permit for the 95 MW Paynesville Wind Farm in Stearns County

Issue(s):       Should the Commission revoke the LW ECS Site Permit or take some other action in each of the listed four dockets?

Staff:           Tricia DeBleekere | 651-201-2254 | [tricia.debleeckere@state.mn.us](mailto:tricia.debleeckere@state.mn.us)

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### Background Documents

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<b>EcoHarmony West Wind, LLC</b>	<b>IP6688/WS-08-973</b>
Commission – Letter: Requirement to Show Cause .....	May 8, 2015
Gamesa Wind US – Letter: Response to Request to Show Cause.....	June 8, 2015

<b>Morgan Wind Acquisition Group, LLC</b>	<b>IP6723/WS-09-360</b>
Commission – Letter: Requirement to Show Cause .....	May 8, 2015
Email Correspondence from MWAG .....	Attachment A
MN Secretary of State - LLC Status as of 6/9/2015 .....	Attachment B

<b>West Stevens Wind, LLC</b>	<b>IP6824/WS-09-830</b>
Commission – Letter: Requirement to Show Cause .....	May 8, 2015
West Stevens Wind, LLC – Compliance: Request for Permittee to Show Cause .....	June 8, 2015

**Paynesville Wind, LLC**

**IP6830/WS-10-49**

Commission – Letter: Requirement to Show Cause ..... May 8, 2015

Paynesville Wind, LLC – Letter: Regarding the Site Permit and the Cert. of Need ..... June 5, 2015

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

This document can be made available in alternative formats (i.e., large print or audio) by calling 651-296-0406 (voice). Persons with hearing or speech disabilities may call us through their preferred Telecommunications Relay Service.

**I. STATEMENT OF THE ISSUES**

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Should the Commission revoke the LWECS Site Permit or take some other action in each of the listed four dockets?

**II. PROCEDURAL HISTORY**

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Four Large Wind Energy Conversion System (LWECS) Site Permits missed their individual deadlines to inform the Commission on why the project has not 1) obtained a power purchase agreement (or other enforceable mechanism) and 2) commenced construction, as required by the conditions in the LWECS Site Permits.

**Table 1. Projects with Lapsed LWECS Site Permit Deadlines:**

<b>Project Name</b>	<b>EcoHarmony West Wind, LLC</b>	<b>Morgan Wind Acquisition Group, LLC</b>	<b>West Stevens Wind, LLC</b>	<b>Paynesville Wind, LLC</b>
Docket No.	WS-08-973	WS-09-360	WS-09-830	WS-10-49
Project Developer	Gamesa	Same as Name	Same as Name	Same as Name
Project Size	116 MW	31.5 MW	20 MW	95 MW
Project County	Fillmore	Redwood and Brown	Stevens	Stearns
Permit Issued Date	1/26/2011	12/22/2009	2/25/2010	1/26/2011
<b>Permit Condition Deadline</b>	<b>4/22/2015</b>	<b>12/22/2013</b>	<b>2/25/2014</b>	<b>2/7/2015</b>
Deadline Past Due	Yes	Yes	Yes	Yes
Letter to eDockets Forfeiting Permit	Yes	No	Yes	Yes
Notes:		See 5/11 email.		

On May 8, 2015, the Commission issued letters to each of these entities requesting that they show cause why their site permits should not be revoked for failure to meet applicable permit conditions. The Commission-issued letters cited the following condition contained in LWECS Site Permits:

**Power Purchase Agreement** - 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 (PPA) 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 amendment, the permittee must advise the Commission of the reason for not having such power

purchase agreement or enforceable mechanism. 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 applicable statutes and rules, including Minnesota Statute 216F.05 and Minnesota Rule 7854.1300.

**Failure to Commence Construction** - If the permittee has not completed the pre-construction surveys and studies required in paragraph III.D. and commenced construction of the project within two years of the issuance of this permit amendment, the permittee must advise the Commission of the reason construction has not commenced. In such event, the Commission may determine 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 Minnesota Statute 216F.05 and Minnesota Rule 7854.1300.

By June 8, 2015, responses were provided by all four entities indicating that either the permitted entity no longer existed or that the Permittee was acquiescing its site permit and/or understood that a new site permit would be necessary in order for the project to be pursued.

### **III. Statute, Rules and Permit Conditions**

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Under Minn. Stat. § 216E.14<sup>1</sup> and Minn. R. 7854.1300, the Commission may revoke or suspend a site permit for a LWECS at any time after adequate notice and hearing if it finds:

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

### **IV. Permittee Responses and Staff Discussion**

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#### *EcoHarmony West Wind, LLC<sup>2</sup>*

Gamesa Wind, on behalf of the Harmony Wind Project, confirmed in their June 8, 2015 response that it had not yet secured a PPA, or other enforceable mechanism or commenced construction of the project. Gamesa noted that it is no longer pursuing development of the project.

#### *Staff Discussion*

Staff believes the June 8, 2015 letter submitted by Gamesa outlining the status of the project is sufficient reason to revoke the Harmony Wind Project LWECS Site Permit.

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

<sup>2</sup> EcoEnergy sold the project to Gamesa who renamed the project "Harmony Wind" – see the May 22, 2013 filing in this docket.

A certificate of need was also issued for the Harmony Wind Project. However, unlike the LWECS Site Permits, not meeting certificate of need deadlines does not require Commission 'revocation' of an certificate of need. Instead, to continue with the project, a developer needs to inform the Commission of the change and the Commission would evaluate whether the change requires recertification pursuant to Minn. Rule 7849.0400.

EcoHarmony would have to have the project in-service by June 2015 to meet the certificate of need criteria, therefore, no action is necessary in that docket.

### ***Morgan Wind Acquisition Group, LLC (MWAG)***

Morgan Wind Acquisition Group, LLC did not file an official response via eDockets, but staff received email correspondence from Paul Dinzeo on May 11, 2015 in response to the Commission's show cause letter. That email summary is included as Attachment A to this briefing paper.

Mr. Dinzeo indicated that the entity and operations of MWAG ceased to exist due to lack of capital resources.

Staff left a follow up voicemail with Mr. Dinzeo on May 12, 2015 requesting the correspondence regarding this matter (or similar) documentation be eFiled, but as of the release of the briefing papers no filings were made by MWAG or Mr. Dinzeo.

Staff searched the Minnesota Secretary of State Business and Lien System on June 9, 2015 and found that Morgan Wind Acquisition Group, LLC is a Minnesota active limited liability company (LLC) until December of 2015. The search results (included as Attachment B to this briefing paper) indicated that Paul Dinzeo was the listed Manager of the Morgan Wind Acquisition Group, LLC.

### ***Staff Discussion***

Staff believes the May 11, 2015 email from Paul Dinzeo outlining the status of the MWAG in conjunction with the MN Secretary of State information naming Paul Dinzeo as the Manager of the MWAG is sufficient reason to revoke the Morgan Wind Project LWECS Site Permit.

### ***West Stevens Wind, LLC***

West Stevens Wind, LLC confirmed in their June 8, 2015 response that it had not yet secured a PPA, or other enforceable mechanism or commenced construction of the project. West Stevens Wind, LLC noted that it amenable to the revocation of its LWECS Site Permit.

### ***Staff Discussion***

Staff believes the June 8, 2015 letter submitted by West Stevens Wind, LLC outlining the status of the project and the developers agreement to the revocation is sufficient reason to revoke the West Stevens Wind Project LWECS Site Permit.

### *Paynesville Wind, LLC*

Paynesville Wind, LLC confirmed in their June 5, 2015 response that it had not yet secured a PPA, or other enforceable mechanism or commenced construction of the project. Paynesville Wind, LLC indicated it would likely need to obtain a new Site Permit and Certificate of Need in order to proceed with the project.

### *Staff Discussion*

Paynesville Wind's June 5, 2015 response did not request an amendment to the site permit. Instead Paynesville Wind indicated that if the project were to proceed, Paynesville Wind would likely need to obtain a new certificate of need and site permit.<sup>3</sup>

Staff believes the June 5, 2015 letter submitted by Paynesville Wind, LLC outlining the status of the project combined with the Permittee's failure to meet the deadlines for informing the Commission of its inability to obtain a PPA and commence construction is sufficient reason (failure to comply with material conditions of the site permit) to revoke the Paynesville Wind LWECS Site Permit.

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<sup>3</sup> The Commission issued Paynesville Wind, LLC a certificate of need in Commission Docket IP6830/CN-09-1110. In February 2013, the Commission found that a delayed in-service date of December 31, 2014 would be reasonable. Pursuant to Minn. Rules 7849.0400, subpart 2, an in-service date delay of less than one year does not require recertification. Therefore, Paynesville Wind has until December 31, 2015 to be in service under the certificate of need. No action on the certificate of need is necessary at this time.

## **V. COMMISSION DECISION ALTERNATIVES**

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What action should the Commission take regarding the following LWECS Site Permits?

### **A. Harmony West Wind, LLC**

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

### **B. Morgan Wind Acquisition Group, LLC (MWAG)**

1. Revoke the Morgan Wind Project Site Permit for a Large Wind Energy Conversion System in Redwood and Brown Counties for the reasons outlined above.
2. Take some other action deemed appropriate.

### **C. West Stevens Wind, LLC**

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

### **D. Paynesville Wind, LLC**

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

Staff recommends A1, B1, C1, and D1.



Minnesota Public Utilities Commission

To: Docket File WS-09-360

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From: Tricia DeBleeckere, Commission Staff

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Date: June 9, 2015

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Subject: Email Response from Morgan Wind Acquisition Group / Call Log

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On May 8, 2015, the Commission issued requests for non-responsive Permittees to show cause why their Large Wind Energy Conversion System Site Permit should not be revoked.

On May 11, 2015, Paul Dinzeo emailed the attached information regarding the Morgan Wind Project.

On May 12, 2015, I left Mr. Dinzeo a phone message requesting that he eFile the May 11 communication or some documentation indicating that Morgan Wind Acquisition Group ceased to exist.

As of June 9, 2015, no filings have been made by MWAG to eDockets.



**DeBleeckere, Tricia (PUC)**

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**From:** Paul Dinzeo <pdinzeo19@gmail.com>  
**Sent:** Monday, May 11, 2015 9:16 PM  
**To:** DeBleeckere, Tricia (PUC)  
**Subject:** Morgan Wind Acquisition Group

Hello Tricia,

I left a voice mail as well regarding the May 8, 2015 letter to the above entity regarding Request for Permittee to Show Cause.

The operations and entity has ceased to exist due to lack of capital resources.

If you'd like to discuss in more detail, please let me know.

Paul

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Paul J. Dinzeo, CPA, JD, MBT

3145 ILO Way  
Stillwater, MN 55082

952.905.9119

# Minnesota Business and Lien System, Office of the Minnesota Secretary of State

## Business Record Details »

Minnesota Business Name

**Morgan Wind Acquisition Group, LLC**

**Business Type**

Limited Liability Company (Domestic)

**MN Statute**

322B

**File Number**

3011898-2

**Home Jurisdiction**

Minnesota

**Filing Date**

09/17/2008

**Status**

Active / In Good Standing

**Renewal Due Date**

12/31/2015

**Registered Office Address**

12 S 6th Str #211  
Mpls, MN 55402  
USA

**Registered Agent(s)**

(Optional) None provided

**Principal Executive Office Address**

5200 West 73rd Street  
Edina, MN 55439  
USA

**Manager**

Paul Dinzeo  
5200 West 73rd Street  
Edina, MN 55439  
USA

Filing History

## Filing History

Select the item(s) you would like to order:

<input type="checkbox"/>	<b>Filing Date</b>	<b>Filing</b>	<b>Effective Date</b>
<input type="checkbox"/>	09/17/2008	Original Filing - Limited Liability Company (Domestic)	
	09/17/2008	Limited Liability Company (Domestic) Business Name	
<input type="checkbox"/>	2/26/2013	Administrative Termination - Limited Liability Company (Domestic)	
	2/27/2014	Administrative Termination Name Hold Release - Limited Liability Company (Domestic)	
<input type="checkbox"/>	12/26/2014	Annual Reinstatement - Limited Liability Company (Domestic)	

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