

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben
Dan Lipschultz
Valerie Means
Matthew Schuerger
John A. Tuma

Chair
Commissioner
Commissioner
Commissioner
Commissioner

Christina K. Brusven
Haley Waller Pitts
Fredrikson & Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402-1425

SERVICE DATE: December 4, 2019

DOCKET NO. IP-7013/CN-19-408

In the Matter of a Notice Plan Petition for the Application of Big Bend Wind, LLC for a Certificate of Need for the up to 335-MW Big Bend Wind Project and 161 kV High Voltage Transmission Line in Cottonwood, Watonwan and Martin Counties

The above entitled matter has been considered by the Commission and the following disposition made:

- 1. Granted a variance to Minnesota Rules, part 7829.2550, subp. 2 in order to accept the Department of Commerce's late-filed comments.**
- 2. Approved the Applicant's proposed Notice Plan.**

This decision is issued by the Commission's consent calendar subcommittee, under a delegation of authority granted under Minn. Stat. § 216A.03, subd. 8 (a). Unless a party, a participant, or a Commissioner files an objection to this decision within ten days of receiving it, it will become the Order of the full Commission under Minn. Stat. § 216A.03, subd. 8 (b).

The Commission agrees with and adopts the recommendations of the Department of Commerce, which are attached and hereby incorporated into the Order. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION



Daniel P. Wolf
Executive Secretary

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November 18, 2019

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. IP-7013/CN-19-408

Dear Mr. Wolf:

Attached are the comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matter:

Notice Plan Petition for the Application of Big Bend Wind, LLC for a Certificate of Need for the up to 335-MW Big Bend Wind Project and 161 kV High Voltage Transmission Line in Cottonwood, Watonwan and Martin Counties.

The Petition was filed on behalf of Big Bend Wind, LLC on October 10, 2019 by:

Christina K. Brusven
Haley Waller Pitts
Fredrikson & Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402-1425

Comments on this Notice Plan Petition were due October 30, 2019. The Department apologizes for these late-filed comments, and provides justification for a variance to Minnesota Rules, part 7829.2550, subp. 2 to allow these comments to be considered by the Minnesota Public Utilities Commission.

The Department recommends **approval** of the Notice Plan. The Department is available to answer any questions that the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ MATTHEW LANDI
Rates Analyst

ML/ja
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. IP-7013/CN-19-408

I. INTRODUCTION

On October 10, 2019, Big Bend Wind, LLC (BBW or the Applicant) filed its *Certificate of Need Notice Plan Approval Request In the Matter of the Application of Big Bend Wind, LLC for a Certificate of Need for the up to 335-MW Big Bend Wind Project and 161 kV High Voltage Transmission Line in Cottonwood, Watonwan and Martin Counties* (Notice Petition).

The Notice Petition provides the Applicant's proposed notice plan for a proposed 161-kV transmission line and associated facilities (the Transmission Line) to be located in Cottonwood, Watonwan, and Martin Counties, MN in the first quarter of 2020. The Transmission Line is proposed to be 30 miles long and would connect BBW's proposed up to 335-MW wind farm to be located in Cottonwood County, MN to an existing 345-kV transmission line near the Great River Energy Lakefield Junction Station in Martin County, MN. Additionally, the Transmission Line project would include the construction of (1) a substation to connect the wind farm to the proposed Transmission Line and (2) a switching station to connect the proposed Transmission Line to the existing 345-kV transmission system.

The Notice Petition includes a draft notice for landowners and residents, a draft notice for governmental entities, and a draft newspaper notice.

II. VARIANCE TO MINNESOTA RULES, PART 7829.2550, SUBP. 2

Minnesota Rules, part 7829.2550, subp. 2 states that "comments on proposed notice plans must be filed within 20 days of the date of filing." Given that the Notice Petition was filed on October 10, 2019, comments were due October 30, 2019. Unfortunately, the Minnesota Department of Commerce, Division of Energy Resources (Department) failed to file comments by the deadline.

Minnesota Rules, part 7829.3200 sets forth the criteria for the Minnesota Public Utilities Commission's (Commission's) approval of a rule variance as follows:

- A. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- B. granting the variance would not adversely affect the public interest; and
- C. granting the variance would not conflict with standards imposed by law.

The Department apologizes for the delay in filing comments, and requests that the Commission grant a variance to Minnesota Rules, part 7829.2550, subp. 2 in order to accept the Department's late-filed comments. The Department concludes that enforcement of the rule would impose an excessive burden upon the Commission due to the lack of record development in support of a Commission decision in this matter. Further, granting the variance would align with the public interest by ensuring that the Notice Petition was thoroughly vetted, while not delaying the proceeding since these comments are filed prior to the reply comment deadline. Finally, granting the variance would not conflict with standards imposed by law. Below are the comments of the Department on the Notice Petition.

III. DEPARTMENT ANALYSIS

A. STATUTORY REQUIREMENT TO FILE A NOTICE PLAN

Minnesota Rules, part 7829.2550 state, in part:

Three months before filing a certificate of need application for a high-voltage transmission line as defined by Minnesota Statutes, section 216B.2421, the applicant shall file a proposed plan for providing notice to all persons reasonably likely to be affected by the proposed line.

Minnesota Statutes § 216B.2421 includes (in relevant part) in its definition of a Large Energy Facility (LEF):

- (2) any high-voltage transmission line with a capacity of 200 kilovolts or more and greater than 1,500 feet in length;
- (3) any high-voltage transmission line with a capacity of 100 kilovolts or more with more than ten miles of its length in Minnesota or that crosses a state line;

Given that the proposed wind farm is expected to require a 161-kV Transmission Line approximately 30 miles long, the proposed Transmission Line falls within the definition of "large energy facility" and, therefore, is considered a high-voltage transmission line for which a notice plan filing is required. The Department concludes that a notice plan is required for the proposed Transmission Line.

B. TYPES OF NOTICE

Minn. R. 7829.2550, subp. 3 requires types of notice as follows:

- direct mail notice, based on county tax assessment rolls, to landowners reasonably likely to be affected by the proposed transmission line;
- direct mail notice to all mailing addresses within the area reasonably likely to be affected by the proposed transmission line;
- direct mail notice to tribal governments and to the governments of towns, statutory cities, home rule charter cities, and counties whose jurisdictions are reasonably likely to be affected by the proposed transmission line; and
- newspaper notice to members of the public in areas reasonably likely to be affected by the proposed transmission line.

Regarding landowner and resident notice, the Applicant proposed to “review the county tax assessment rolls and other relevant county records to determine the names and addresses of those landowners who own property within or adjacent to the proposed transmission line corridor,” and further, “to mail notice to all mailing addresses within or adjacent to the proposed transmission line corridor” using “mailing lists maintained by the United States Post Office or from bulk mailing firms.”¹ The Applicant included a map with their Notice Petition, which indicates in a blue dotted outline what the proposed Notice Plan Area includes. The Department interprets this area to serve as the geographic basis for the Applicant’s determination of which landowners and residents are within or adjacent to the proposed transmission line corridor, which will be used to determine the mailing lists the Applicant will use in issuing its proposed notices. Accordingly, the Department concludes that the Applicant’s proposed plan for landowner and resident notice is reasonable.

Regarding newspaper notice, the Applicant listed three local newspapers in which they proposed to publish a notice regarding the Transmission Line project. These three local newspapers are located in the counties in which the Transmission Line project is proposed to be built. Therefore, the Department concludes that the Applicant’s proposed plan for newspaper notice is reasonable.

Regarding governmental notice, the Applicant’s proposed to provide direct mail notice to the Lower Sioux Indian Community, Counties of Cottonwood, Watonwan, and Martin, the Cities of Mountain Lake, Bingham Lake, and Odin, and Townships of Midway, Carson, Lakeside, Mountain Lake, Cedar, and Odin. Each of these local governments have jurisdictions in geographic scope that appear to be reasonably likely to be affected. Therefore, the Department concludes that the Applicant’s proposed plan for governmental entities is reasonable.

In summary, the Department concludes that the Applicant’s notice plan for residents, landowners, and governmental entities is reasonable.

¹ Notice Plan Petition, pages 2-3.

C. CONTENT OF NOTICE

Minnesota Rules 7829.2550, subp. 4 requires the noticed to provide the following information:

- A. a map showing the end points of the line and existing transmission facilities in the area;
- B. a description of general right-of-way requirements for a line of the size and voltage proposed and a statement that the applicant intends to acquire property rights for the right-of-way that the proposed line will require;
- C. a notice that the line cannot be constructed unless the commission certifies that it is needed;
- D. the Commission's mailing address, telephone number, and website;
- E. if the applicant is a utility subject to chapter 7848, the address of the website on which the utility applicant will post or has posted its biennial transmission projects report required under that chapter;
- F. a statement that the Environmental Quality Board² will be preparing an environmental report on each high-voltage transmission line for which certification is requested;
- G. a brief explanation of how to get on the mailing list for the Environmental Quality Board's proceeding; and
- H. a statement that requests for certification of high-voltage transmission lines are governed by Minnesota law, including specifically chapters 4410, parts 7849.0010 to 7849.0400, and 7849.1000 to 7849.2100, and Minnesota Statutes, section 216B.243.

The Department reviewed the cover letters and maps attached to the Notice Petition. Based upon that review the Department concludes that the Applicant's proposed plans for the resident/landowner notice, governmental notice, and newspaper notice contains the required content.

D. NOTICE TIMING

Minnesota Rules, part 7829.2550, subp. 6, requires the applicant to implement the Notice Petition within 30 days of its approval by the Commission. The Applicant indicated their intention to implement the Notice Plan within 30 days of its approval by the Commission. Therefore, the Department concludes that the Applicant's proposed notice timing is reasonable.

² The Department notes that while the statutes have changed regarding routing authority and location of the staff preparing the environmental report, the Commission's rules have not yet been updated to reflect these changes. See Docket No. E,ET,IP999/R-12-1246.

IV. DEPARTMENT CONCLUSIONS AND RECOMMENDATIONS

The Department requests that the Commission grant a variance to Minnesota Rules, part 7829.2550, subp. 2 in order to accept the Department's late-filed comments.

The Department recommends that the Commission approve the Applicant's proposed Notice Plan.

/ja

CERTIFICATE OF SERVICE

I, Robin Benson, hereby certify that I have this day, served a true and correct copy of the following document to all persons at the addresses indicated below or on the attached list by electronic filing, electronic mail, courier, interoffice mail or by depositing the same enveloped with postage paid in the United States mail at St. Paul, Minnesota.

Minnesota Public Utilities Commission ORDER

Docket Number: **IP-7013/CN-19-408**

Dated this **4th** day of **December, 2019**

/s/ Robin Benson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Christina	Brusven	cbrusven@fredlaw.com	Fredrikson Byron	200 S 6th St Ste 4000 Minneapolis, MN 554021425	Electronic Service	No	OFF_SL_19-408_CN-19-408
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1800 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_19-408_CN-19-408
Kate	Fairman	kate.frantz@state.mn.us	Department of Natural Resources	Box 32 500 Lafayette Rd St. Paul, MN 551554032	Electronic Service	No	OFF_SL_19-408_CN-19-408
Annie	Felix Gerth	annie.felix-gerth@state.mn.us		Board of Water & Soil Resources 520 Lafayette Rd Saint Paul, MN 55155	Electronic Service	No	OFF_SL_19-408_CN-19-408
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_19-408_CN-19-408
Lucas	Franco	lfranco@liunagroc.com	LIUNA	81 Little Canada Rd E Little Canada, MN 55117	Electronic Service	No	OFF_SL_19-408_CN-19-408
Brenna	Gunderson	Brenna.gunderson@apexcleanenergy.com	Apex Clean Eenergy	8665 Hudson Blvd N Ste 110 Lake Elmo, MN 55042	Electronic Service	No	OFF_SL_19-408_CN-19-408
Kate M	Heins	kate.heins@apexcleanenergy.com	Apex Clean Energy	310 4th St NE Ste 200 Charlottesville, VA 22902	Electronic Service	No	OFF_SL_19-408_CN-19-408
Kari	Howe	kari.howe@state.mn.us	DEED	332 Minnesota St, #E200 1ST National Bank Bldg St. Paul, MN 55101	Electronic Service	No	OFF_SL_19-408_CN-19-408
Ray	Kirsch	Raymond.Kirsch@state.mn.us	Department of Commerce	85 7th Place E Ste 500 St. Paul, MN 55101	Electronic Service	No	OFF_SL_19-408_CN-19-408

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Karen	Kromar	karen.kromar@state.mn.us	MN Pollution Control Agency	520 Lafayette Rd Saint Paul, MN 55155	Electronic Service	No	OFF_SL_19-408_CN-19-408
Chris	Kunkle	chris.kunkle@apexcleanenergy.com	Apex Clean Energy	8665 Hudson Blvd North, Suite 110 Lake Elmo, MN 55042	Electronic Service	No	OFF_SL_19-408_CN-19-408
Susan	Medhaug	Susan.medhaug@state.mn.us	Department of Commerce	Suite 280, 85 Seventh Place East St. Paul, MN 551012198	Electronic Service	No	OFF_SL_19-408_CN-19-408
Debra	Moynihan	debra.moynihan@state.mn.us	MN Department of Transportation	395 John Ireland Blvd MS 620 St. Paul, MN 55155-1899	Electronic Service	No	OFF_SL_19-408_CN-19-408
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_19-408_CN-19-408
Stephan	Roos	stephan.roos@state.mn.us	MN Department of Agriculture	625 Robert St N Saint Paul, MN 55155-2538	Electronic Service	No	OFF_SL_19-408_CN-19-408
Haley	Waller Pitts	hwallerpitts@fredlaw.com	Fredrikson & Byron, P.A.	200 S 6th St Ste 4000 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_19-408_CN-19-408
Cynthia	Warzecha	cynthia.warzecha@state.mn.us	Minnesota Department of Natural Resources	500 Lafayette Road Box 25 St. Paul, Minnesota 55155-4040	Electronic Service	No	OFF_SL_19-408_CN-19-408
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_19-408_CN-19-408