

# Minnesota Public Utilities Commission

## Staff Briefing Papers

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Meeting Date: **June 29, 2017** ..... Agenda Item # \*1

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Company: Dodge County Wind, LLC

Docket No. IP6981/CN-17-306

**In the Matter of Petition of Dodge County Wind, LLC for a Certificate of Need for the 200 MW Large Wind Energy Conversion System and an associated 345 kV Transmission Line in Dodge County, Minnesota**

Issue(s): Should the Commission approve Dodge County Wind, LLC's proposed Notice Plan and timing variance? Should the Commission grant the requested exemptions from certain certificate of need filing requirements?

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

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### Relevant Documents

**Bolded Items are the attached documents to this paper**

Dodge County Wind, LLC – Notice Plan ..... April 20, 2017  
Dodge County Wind, LLC – Petition for Exemptions from CN Filing Rqrm'ts ..... April 20, 2017  
Dodge County Wind, LLC – Notice Plan - Errata ..... April 24, 2017  
**DOC DER – Comments on Exemptions..... May 8, 2017**  
DOC DER – Comments on Notice Plan ..... May 10, 2017  
Dodge County Wind, LLC - Response to Exemption Comments (May 8) ..... May 12, 2017  
Dodge County Wind, LLC – Response to Notice Plan Comments (May 10) ..... May 16, 2017  
**DOC DER – Response to Reply Comments on the Notice Plan ..... June 1, 2017**

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

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 Issue**

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Should the Commission approve Dodge County Wind, LLC's proposed Notice Plan and timing variance? Should the Commission grant the requested exemptions from certain certificate of need filing requirements?

**II. Staff Discussion**

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Staff recommends the Commission approve the Notice Plan, timing variance and exemption request as outlined by the Department in its May 8 and June 1 comments on the matter (cited below).

As noted by the Department, the requested variance to the certificate of need filing requirements are common variances afforded by the Commission to independent power producers; once and if Dodge County obtains a purchaser of its energy during the permitting process, supplemental information is required to be filed (as outlined by the Department). The Commission has authorized these exemptions several times before (see Dodge County and the Department comment footnotes for citations).

Additionally, the Department recommended Dodge County expand its notice plan 'range' and Dodge County agreed to do so, by filing in the Star Tribune. Its proposed notice plan is reasonable and staff recommends approval. Additionally, Dodge County has requested a timing variance to implementation of the Notice Plan and filing of the Certificate of Need application – which again, has become a standard request of developers. The Commission has supported this request as it provides notice of a pending project to the public closer to the time of an application submittal.

Staff agrees with the Department and supports adopting the Department's recommendations:

(next page)

**Department May 8, 2017 Comments on filing exemptions from the certificate of need:**

**III. DEPARTMENT RECOMMENDATION**

The Department recommends that the Commission determine that the following data requirements are not applicable:

- 7849.0260 (A) 3 and (C) 6: Line Loss Data;
- 7849.0260 (B) 1: Alternatives to the Transmission Line;
- 7849.0260 (C) 5: Details Regarding Alternatives; and
- 7849.0260 (D): Map of Applicant's System.

The Department recommends that the Commission approve the following exemptions conditioned upon DCW providing equivalent data from the purchaser:

- 7849.0240, subp. 2 (B): Promotional Activities;
- 7849.0250 (B) 2, 3, and 5: Description of Certain Alternatives;
- 7849.0250 (C) 7: Effect of Project on Rates System-wide;
- 7849.0300: Consequences of Delay—System; and
- 7849.0340: The Alternative of No Facility.

The Department recommends that the Commission approve the following exemptions as proposed:

- 7849.0250 (B) 1 and 4: Description of Certain Alternatives;
- 7849.0250 (C) 1 to 6, 8 and 9: Availability of Alternatives to the Facility;
- 7849.0250 (D): Map of Applicant's System;
- 7849.0270: Peak Demand and Annual Consumption Forecast;
- 7849.0280: System Capacity;
- 7849.0290: Conservation Programs; and
- 7849.0330: Alternatives Involving an LHVTL.

**Department June 1, 2017 recommendation on the Notice Plan approval and timing variance:**

The Department considers complete and thorough public notice to be crucial in ensuring that the public is aware of, can participate in, and affect the outcome of a CN proceeding. With respect to this case, Dodge County Wind has indicated that it would publish the notice in a newspaper of general circulation *i.e.*, *Star Tribune*. Therefore, the Department recommends the following:

- approve the Applicant's proposed Notice Plan, as modified by the Applicant's reply comments, with the clarification that the Notice Area will encompass the entire width of DCW's proposed route alternatives; and
- grant the Applicant a variance to Minnesota Rules 7829.2550, subp. 6 to allow implementation of the Notice Plan within 2 to 4 weeks prior to filing of the CN petition.

June 1, 2017

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

RE: **Response Comments of the Minnesota Department of Commerce, Division of Energy Resources to Dodge County Wind, LLC's Reply Comments on the Notice Plan Petition for the Application of Dodge County Wind, LLC for Certificate of Need for the 200-MW Large Wind Energy conversion System and an Associated 345-kV Transmission Line in Dodge County, Minnesota.**  
Docket No. IP6981/CN-17-306

Dear Mr. Wolf:

On May 16, 2017, Dodge County Wind, LLC (Applicant or DCW) filed reply comments to the Department's May 10, 2017 comments on the Notice Plan Petition for the Application of Dodge County Wind LLC for a Certificate of Need for the 200-MW Large Wind Energy Conversion System and an associated 345-kV Transmission Line in Dodge County, Minnesota. The Applicant agreed to the Department's recommendations and responded to the Department's request that DCW fully justify its request to forgo notice publication in newspaper of general circulation throughout the state, as required by Minnesota Rules 7829.2500, subp. 5. In its reply comments, the Applicant stated that this requirement would be satisfied by publishing a notice in the *Star Tribune*.

The Department considers complete and thorough public notice to be crucial in ensuring that the public is aware of, can participate in, and affect the outcome of a CN proceeding. With respect to this case, Dodge County Wind has indicated that it would publish the notice in a newspaper of general circulation *i.e.*, *Star Tribune*. Therefore, the Department recommends the following:

- approve the Applicant's proposed Notice Plan, as modified by the Applicant's reply comments, with the clarification that the Notice Area will encompass the entire width of DCW's proposed route alternatives; and
- grant the Applicant a variance to Minnesota Rules 7829.2550, subp. 6 to allow implementation of the Notice Plan within 2 to 4 weeks prior to filing of the CN petition.

The Department is available to answer any questions that the Commission may have.

Sincerely,

/s/ BEN KAMARA  
Financial Analyst

BK/lt



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SAINT PAUL, MINNESOTA 55101-2198  
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May 8, 2017

Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7th Place East, Suite 350  
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**  
Docket No. IP6981/CN-17-306

Dear Mr. Wolf:

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

Application of Dodge County Wind, LLC for a Certificate of Need for the 200 MW Large Wind Energy Conversion System and an associated 345 KV Transmission Line in Dodge County, Minnesota.

The petition was filed on April 20, 2017 by:

Brian M. Meloy  
Stinson Leonard Street  
150 South Fifth Street, Suite 2300  
Minneapolis, MN 55402

The Department recommends that the Minnesota Public Utilities Commission (Commission) **approve the data exemption requests with conditions**. The Department is available to answer any questions that the Commission may have in this matter.

Sincerely,

/s/ STEVE RAKOW  
Rates Analyst

SR/lt  
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE  
MINNESOTA DEPARTMENT OF COMMERCE

DOCKET No. IP6981/CN-17-306

**I. SUMMARY OF FILING**

On April 20, 2017 Dodge County Wind, LLC (DCW or the Company) filed the Company's *Petition for Exemption from Certain Certificate of Need Application Requirements* (Petition).

Also on April 20, 2017 DCW filed a notice plan petition; the notice plan will be addressed in separate comments.

On April 26, 2017 the Minnesota Public Utilities Commission (Commission) issued its *Notice of Comment Period on Certificate of Need Exemption Requests* (Notice). The Notice indicates that two topics are open for comment:

- Should the Commission grant the certificate of need filing requirement exemptions as requested by Dodge County Wind, LLC?
- Are there any other project-related issues or concerns?

**A. PROJECT BACKGROUND**

DCW is an independent power producer (IPP) and an indirect, wholly-owned subsidiary of NextEra Energy Resources, LLC (NEER). DCW plans to develop, own and operate a 200 MW large wind energy conversion system (Project) in Dodge County, Minnesota. The project will be connected to the electric grid at Southern Minnesota Municipal Power Agency's Byron Substation by an approximately 23-mile 345-kilovolt (kV) transmission line that is proposed to be located in Dodge and Olmsted Counties. The proposed Project is a renewable energy project intended to assist the purchaser in achieving its renewable energy needs.

Note that DCW states that the Company has secured an in-state purchaser for the energy.

## **B. EXEMPTION REQUESTS**

In the Petition, DCW requests exemption from providing data relevant to the Minnesota Rules listed below:

- i. 7849.0240, subp. 2 (B);
- ii. 7849.0250 (B) 1-5;
- iii. 7849.0250 (C) 1 to 6, 8 and 9;
- iv. 7849.0250 (C) 7;
- v. 7849.0250 (D);
- vi. 7849.0260 (A) 3 and (C) 6;
- vii. 7849.0269 (B);
- viii. 7849.0260 (C) 1, 3, 4, 5, 6, 7;
- ix. 7849.0260 (D);
- x. 7849.0270;
- xi. 7849.0280;
- xii. 7849.0290;
- xiii. 7849.0300;
- xiv. 7849.0330; and
- xv. 7849.0340.

DCW notes that the Commission has previously granted exemption requests for these items for IPP projects.

Below are the Comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) regarding the Petition.

## **II. DEPARTMENT ANALYSIS**

### **A. GOVERNING STATUTE**

Minnesota Statutes § 216B.243, subd. 2 states that no large energy facility (LEF) shall be constructed without a certificate of need (CN). At 200 MW the proposed Project qualifies as an LEF. DCW's Petition requests exemption from several of the filing requirements related to a future CN application for the proposed Project.

Minnesota Rules, part 7849.0200, subp. 6 states that an exemption is appropriate if the data requirement is not necessary in order to determine the need, or can be obtained via another document:

Before submitting an application, a person is exempted from any data requirement of parts 7849.0010 to 7849.0400 if the person (1) requests an exemption from specified rules, in writing to the Commission, and (2) shows that the data requirement is unnecessary to determine the need for the proposed facility or

may be satisfied by submitting another document. A request for exemption must be filed at least 45 days before submitting an application.

The Department examines each specific exemption request separately. The criterion to be considered is whether DCW has shown that “the data requirement is unnecessary to determine the need for the proposed facility or may be satisfied by submitting another document.”

*B. EXEMPTION ANALYSIS*

*1. 7849.0240, subp. 2 (B): Promotional Activities*

This rule requires an applicant to provide an explanation of the relationship of the proposed facility to promotional activities that may have given rise to the demand for the facility. DCW states that the Company “does not intend to sell electricity directly to end-use customers, and, therefore, has not engaged in any promotional activity.” The Department notes that the Commission has granted this exemption to IPPs because these companies do not have captive customers. However, since DCW has secured a purchaser for the energy the Department recommends that the exemption be granted conditioned upon DCW providing equivalent data from the purchaser.

*2. 7849.0250 (B) 1-5: Description of Certain Alternatives*

This rule requires an applicant to provide a discussion of the availability of alternatives to the facility, including but not limited to:

- 1) purchased power;
- 2) increased efficiency of existing facilities, including transmission lines;
- 3) new transmission lines;
- 4) new generating facilities of a different size or using a different energy source;  
and
- 5) any reasonable combinations of the alternatives listed in sub items (1) to (4).

DCW requests an exemption from information requirements 1, 2, 3 and 5 as they are not applicable and a partial exemption of requirement 4 such that DCW not address non-renewable alternatives. The Department agrees with DCW that an exemption to the extent an alternative cannot address the need for renewable power is reasonable.

DCW notes that the Commission has granted this exemption to IPPs because these companies do not have captive customers. However, since DCW has secured a purchaser for the energy the Department recommends that the exemption be granted conditioned upon DCW providing equivalent data from the purchaser.



Regarding Minnesota Rules 7849.0250 (B) 1, DCW's customer has selected purchased power, thus purchased power is not an alternative, it is the proposal. Thus, an exemption is appropriate.

While the requirements of Minnesota Rules 7849.0250 (B) 2, 3 and 5 are not applicable to DCW, they may be applicable to DCW's customer. Therefore, the Department recommends that the exemption be granted conditioned upon DCW providing equivalent data on renewable alternatives from the purchaser.

3. *7849.0250 (C) 1 to 6, 8 and 9: Availability of Alternatives to the Facility*

This rule requires an applicant to provide the following information for the proposed facility and each of the alternatives provided in response to Minnesota Rules 7849.0250 (C):

- 1) capacity costs in current dollars per kilowatt;
- 2) service life;
- 3) estimated average annual availability;
- 4) fuel costs in current dollars per kilowatt hour;
- 5) variable operating and maintenance costs in current dollars per kilowatt hour;
- 6) total cost in current dollars of a kilowatt hour provided by it;
- 7) estimate of its effect on rates system wide and in Minnesota;
- 8) efficiency, expressed as the estimated heat rate; and
- 9) major assumptions made in providing the above information (e.g., escalation rates used, projected capacity factors).

DCW states that:

As explained above, nonrenewable alternatives cannot fulfill the proposed project's purpose of increasing the supply of renewable generation. Therefore, consistent with the request for a partial exemption of Minn. R. 7849.0250 (B) 4 and Commission precedent, Dodge County Wind proposes to address Minn. R. 7849.0250 (C) 1-6, 8 and 9 for renewable alternatives it identifies that could provide electric power at the asserted level of need. [citation omitted]

The Department agrees that the required information—regarding non-renewable alternatives—is not relevant to analysis of alternatives to DCW's proposed Project and that the proposed alternative data will better address the proposed need. Therefore, the Department recommends that the Commission grant the proposed exemption.

4. *7849.0250 (C) 7: Effect of Project on Rates System-wide*

This rule requires an applicant to provide an estimate the project's effect on rates system-wide and in Minnesota, assuming a test year beginning with the proposed in-service date. DCW requests an exemption because DCW does not operate a system. The Commission

has granted a similar exemption to IPPs because IPPs do not have a system. However, since DCW has secured a purchaser for the energy the Department recommends that the exemption be granted conditioned upon DCW providing equivalent data from the purchaser.

5. *7849.0250 (D): Map of Applicant's System*

This rule requires an applicant to provide a map of the applicant's system. DCW requests an exemption because DCW does not operate a system. As an alternative, DCW proposes to file a map showing the site of DCW's project, including the generation-tie line and its proposed interconnection to the transmission grid. The Department agrees that the proposed alternative map would contain more relevant data. Therefore, the Department recommends that the Commission approve the requested exemption with the provision of DCW's proposed alternative data.

6. *7849.0260 (A) 3 and (C) 6: Line Loss Data*

Minnesota Rules 7849.0010 subpart 13 defines a large electric generating facility (LEGF) as an "electric power generating unit or combination of units as defined by Minnesota Statutes, section 216B.2421, subdivision 2, clause (1)." In turn, Minnesota Statutes 216B.2421 subd. 2 (1) defines a large energy facility as "any electric power generating plant or combination of plants at a single site with a combined capacity of 50,000 kilowatts or more and transmission lines directly associated with the plant that are necessary to interconnect the plant to the transmission system." Therefore, under Minnesota Rules the transmission line is not considered to be a facility separate from the generating unit and does not qualify as a large high voltage transmission line (LHVTL).<sup>1</sup>

Minnesota Rules 7849.0260 requires data be provided regarding applications for an LHVTL. Since DCW is not proposing a LHVTL (the transmission line is considered part of the LEGF), none of the data requirements are applicable and an exemption is not needed.

7. *7849.0260 (B) 1: Alternatives to the Transmission Line*

As discussed above, Minnesota Rules 7849.0260 requires data be provided regarding applications for an LHVTL. Since DCW is not proposing a LHVTL, none of the data requirements are applicable and an exemption is not needed.

8. *7849.0260 (C) 5: Details Regarding Alternatives*

As discussed above, Minnesota Rules 7849.0260 requires data be provided regarding applications for an LHVTL. Since DCW is not proposing a LHVTL, none of the data requirements are applicable and an exemption is not needed.

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<sup>1</sup> This is consistent with the Commission's October 16, 2008 *Order Granting Exemption, Approving Notice Plan as Modified and Granting Variance* in Docket No. IP6687/CN-08-951 which determined that a notice plan was required for an 11-mile, 230-kV transmission line proposed to interconnect a 201 MW generation project. However, no exemptions regarding Minnesota Rules 7849.0260 were granted and the subsequent CN proceeding did not require information regarding alternatives to the transmission facility.

9. *7849.0260 (D): Map of Applicant's System*

As discussed above, Minnesota Rules 7849.0260 requires data be provided regarding applications for an LHVTL. Since DCW is not proposing a LHVTL, none of the data requirements are applicable and an exemption is not needed.

10. *7849.0270: Peak Demand and Annual Consumption Forecast*

This rule requires an applicant to provide system forecast data. DCW requests an exemption because it does not own or operate a system. Instead, DCW proposes to provide a general overview of the purchaser's system and future renewable resource needs. The Department agrees that DCW's proposed alternative data is relevant. Therefore, the Department recommends that the Commission approve the requested exemption and require DCW to provide data regarding the purchaser's system and future renewable resource needs.

11. *7849.0280: System Capacity*

This rule requires an applicant to provide information regarding the ability of its existing system to meet the demand for electrical energy forecast in response to part 7849.0270. Again, DCW does not have a system but proposes to provide a general overview of the purchaser's system and future renewable resource needs. The Department recommends that the Commission approve the requested exemption and require DCW to provide data regarding the purchaser's system and future renewable resource needs.

12. *7849.0290: Conservation Programs*

This rule requires an applicant to provide information related to conservation programs. DCW requests an exemption because:

- DCW is not a utility and does not have a system or retail customers to implement conservation; and
- only an increase in energy from eligible energy technologies will enable the purchaser to meet Minnesota's renewable energy obligations.

The Department agrees that conservation cannot meet a need for renewable energy and recommends that the Commission approve the requested exemption.

13. *7849.0300: Consequences of Delay—System*

This rule requires an applicant to provide information regarding anticipated consequences to its system, neighboring systems, and the power pool should the proposed facility be delayed one, two, and three years, or postponed indefinitely. DCW requests an exemption because the Company does not have a system. The Department recommends that the

Commission approve the requested exemption and require DCW to provide data regarding the consequences of delay on the purchaser's system and future renewable resource needs.

*14. 7849.0330: Alternative Involving an LHVTL*

This rule requires an applicant to provide data for each alternative that would involve construction of an LHVTL. Regarding this requirement DCW states that "other transmission facilities are not true alternatives to the proposed Dodge County generation-tie line, since the purpose of the generation-tie line is to deliver the output from the facility to increase the supply of renewable energy to the purchaser to meet its renewable energy obligations." The Department agrees with DCW's analysis and recommends that the Commission grant the proposed exemption.

*15. 7849.0340: The Alternative of No Facility*

This rule requires an applicant to provide information regarding the impact of the alternative of no facility on the existing system. DCW requests an exemption because it does not have a system. The Department recommends that the Commission approve the requested exemption and require DCW to provide data regarding the no-build alternative on the purchaser's system and future renewable resource needs.

### **III. DEPARTMENT RECOMMENDATION**

The Department recommends that the Commission determine that the following data requirements are not applicable:

- 7849.0260 (A) 3 and (C) 6: Line Loss Data;
- 7849.0260 (B) 1: Alternatives to the Transmission Line;
- 7849.0260 (C) 5: Details Regarding Alternatives; and
- 7849.0260 (D): Map of Applicant's System.

The Department recommends that the Commission approve the following exemptions conditioned upon DCW providing equivalent data from the purchaser:

- 7849.0240, subp. 2 (B): Promotional Activities;
- 7849.0250 (B) 2, 3, and 5: Description of Certain Alternatives;
- 7849.0250 (C) 7: Effect of Project on Rates System-wide;
- 7849.0300: Consequences of Delay—System; and
- 7849.0340: The Alternative of No Facility.

The Department recommends that the Commission approve the following exemptions as proposed:

- 7849.0250 (B) 1 and 4: Description of Certain Alternatives;
- 7849.0250 (C) 1 to 6, 8 and 9: Availability of Alternatives to the Facility;
- 7849.0250 (D): Map of Applicant's System;
- 7849.0270: Peak Demand and Annual Consumption Forecast;
- 7849.0280: System Capacity;
- 7849.0290: Conservation Programs; and
- 7849.0330: Alternatives Involving an LHVTL.

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