

July 29, 2015

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

RE: **Certificate of Need Notice of Changed Circumstances**
Docket No. IP6687/CN-08-951

Dear Mr. Wolf:

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

Petition for Changes to Certificate of Need Without Recertification or Further Hearing.

The petitioner is:

Andrew J. Gibbons
Stinson Leonard Street, LLP
150 South Fifth Street, Suite 2300
Minneapolis, MN 55402

The Department recommends the Minnesota Public Utilities Commission **determine that the change is acceptable without recertification.** The Department is available to answer any questions that the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ STEVE RAKOW
Rates Analyst

SR/lt
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES

DOCKET No. IP6687/CN-08-951

I. INTRODUCTION

On February 3, 2010, the Minnesota Public Utilities Commission (Commission) issued the Commission's *Order Finding Environmental Report Adequate and Granting Certificate of Need* (First Order). The First Order approved the application of Noble Flat Hill Windpark I, LLC for a Certificate of Need. The First Order noted that the proposed in-service date for the 201 MW wind farm in Clay County (Project) was December 2010.

On April 4, 2013, Flat Hill Windpark I, LLC (Flat Hill or the Petitioner), formerly known as Noble Flat Hill I, LLC,¹ submitted the Petitioner's *Petition for Changes to Certificate of Need without Recertification or Further Hearing* (First Notice). The First Notice indicated that the in-service date of the Project would be delayed by more than one year – to December 2015.

On August 27, 2013, the Commission issued its *Order Extending Certificate of Need In-service Date* (Second Order). The Second Order determined that the change in the in-service date from December 2010 to December 2015 requested by the First Notice was acceptable without recertification or further hearings.

On July 15, 2015, Flat Hill submitted the Petitioner's *Petition for Changes to Certificate of Need Without Recertification or Further Hearing* (Second Notice). The Second Notice requests that the Commission accept a change in the in-service date for the Project to December 2017 without recertification.

Regarding a project granted a Certificate of Need (CN) by the Commission, Minnesota Rules, part 7849.0400, subpart 2A states that “a delay of one year or less in the in-service date of a large generation or transmission facility previously certified by the Commission is not subject to review by the Commission.” Further, Minnesota Rules, part 7849.0400, subpart 2H states, in part:

¹ Notice of the name change was incorporated into the record on September 1, 2011.

If an applicant determines that a change in size, type, timing, or ownership other than specified in this subpart is necessary for a large generation or transmission facility previously certified by the Commission, the applicant must inform the Commission of the desired change and detail the reasons for the change.

Minnesota Rules, part 7849.0400, subpart 2H states that “Intervenors may comment on the proposed change within 15 days of being notified of the change.” Below are the comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) regarding the Second Notice.

II. ANALYSIS

A. CRITERIA

Regarding notice of a change in the size, type, timing, or ownership of a previously certified project, Minnesota Rules 7849.0400 subpart 2H states:

The Commission shall evaluate the reasons for and against the proposed change and, within 45 days of receipt of the request, notify the applicant whether the change is acceptable without recertification. The Commission shall order further hearings if and only if it determines that the change, if known at the time of the need decision on the facility, could reasonably have resulted in a different decision under the criteria specified in part 7849.0120.

Thus, the Department evaluates the proposed changes to the in-service date to determine if the change in timing “could reasonably have resulted in a different decision.”

B. REVISED IN-SERVICE DATE

Flat Hill attributed the revised timing to “Congress extending the PTC only one year at a time, and combined with the low pricing being offered for wind power purchase agreements (PPA) the industry as a whole was largely paralyzed during this timeframe [i.e., 2013 and 2014].” In addition Flat Hill indicated that, due to “the delays that impaired the advancement of the Project pre-2013, the Flat Hill Project entered this down period at a distinct disadvantage relative to other wind projects.”

Flat Hill also stated that an extension of the commercial operation date does not change the fact that the renewable energy from the Project will be needed by Minnesota utilities to meet renewable energy standards, and/or in response to the pending changes in environmental regulations described in Flat Hill’s *Petition for Modification or Amendment to the Site Permit*,

as there continues to be renewable energy standard milestones to be met, along with additional factors driving continued investment in renewable generation, of which wind is generally the least cost resource for meeting those needs.

Regarding timing, the Department's (then known as the Office of Energy Security or OES) February 6, 2009 comments indicated that, given the substantial need for additional renewable generation needed to meet the 2012 Minnesota Renewable Energy Standard (RES), the Project's size and timing were reasonable. Given that the RES requires an increasing percentage of renewable resources through 2025, the Department concludes that an in-service date of December 2017 for the Flat Hill Project, if known at the time of the need decision, could not reasonably have resulted in a different decision. Therefore, the Department recommends that the Commission determine that the change is acceptable without further hearings.

III. DEPARTMENT RECOMMENDATION

The Department recommends that the Commission determine that the change in timing is acceptable without further hearings.

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CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Comments**

Docket No. IP6687/CN-08-951

Dated this 29th day of July 2015

/s/Sharon Ferguson

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