

September 27, 2019

Mr. Daniel Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, MN 55101-2147

Re: **Initial Comments of Dodge County Wind, LLC**

In the Matter of the Application of Dodge County Wind, LLC for a Certificate of Need, Site Permit, and a Route Permit for the Dodge County Wind Project and Associated 345 kV High Voltage Transmission Line in Dodge, Steele, and Olmsted Counties, Minnesota

MPUC Dockets IP-6981/CN-17-306, WS-17-307, and TL-17-308

Dear Mr. Wolf:

Pursuant to the Minnesota Public Utilities Commission's September 13, 2019 Notice of Comment Period in the above-referenced dockets, Dodge County Wind, LLC respectfully submits the enclosed Initial Comments addressing the topics set forth in the Notice of Comment Period.

Thank you for your attention to this matter. Please feel free to contact me with any questions or concerns.

Respectfully Submitted,

Stinson LLP



Andrew Gibbons

50 South Sixth Street, Suite 2600, Minneapolis, MN 55402

STINSON LLP  **STINSON.COM**

**STATE OF MINNESOTA
BEFORE THE
PUBLIC UTILITIES COMMISSION**

Katie Sieben	Chair
Dan Lipschultz	Commissioner
Matthew Schuerger	Commissioner
John Tuma	Commissioner
Valerie Means	Commissioner

In the Matter of the Application of Dodge County Wind, LLC for a Certificate of Need for the Dodge County Wind Project and Associated Facilities in Dodge, Steele, and Olmsted Counties, Minnesota

MPUC Docket No.
IP-6981/CN-17-306

In the Matter of the Application of Dodge County Wind, LLC for a Site Permit for the Dodge County Wind Project and Associated Facilities in Dodge and Steele Counties, Minnesota

MPUC Docket No.
IP-6981/WS-17-307

In the Matter of the Application of Dodge County Wind, LLC for a Route Permit for the 345 kV High-Voltage Transmission Line Associated with the Dodge County Wind Project in Dodge and Olmsted Counties, Minnesota

MPUC Docket No.
IP-6981/TL-17-308

OAH Docket No. 5-2500-35668

DODGE COUNTY WIND, LLC'S INITIAL COMMENTS

I. Introduction

On September 13, 2019, the Minnesota Public Utilities Commission (“Commission”), in the above-referenced dockets, issued a Notice of Comment Period (“Notice”), which set forth specific topics for comment. Dodge County Wind, LLC (“DCW”) respectfully submits these initial comments addressing each of the topics set forth in the Notice, and, more specifically, DCW requests that the Commission revert the case to Administrative Law Judge Mortenson for

the continued the review of the Site Permit and Certificate of Need (“CON”) Applications as updated by DCW on September 6, 2019.

II. Comments

A. The Commission should grant DCW’s request to withdraw its Route Permit Application.

As explained in DCW’s request to withdraw its Route Permit Application, DCW withdrew its MISO interconnection queue position no. J441 due to significant interconnection costs associated with that queue position. Consequently, DCW no longer plans to construct a 345 kilovolt (“kV”) transmission line from the wind project to the Byron substation. Thus, the current Route Permit Application submitted by DCW no longer represents a viable transmission line, transmission route, and interconnection, and, therefore, any further review of the Application would not be in the public interest. Further, no party would be prejudiced by the withdrawal, and there are no issues in the Application that require Commission action. Accordingly, pursuant to Minn. R. 7829.0430, subp. 2, the Commission should grant the withdrawal of the current Route Permit Application.

On August 30, 2019, Laborers District Council of Minnesota and North Dakota (“LIUNA”) objected to the withdrawal of the Route Permit Application, expressing a concern that without the Route Permit Application there is no project. As a result, LIUNA asserts that the Commission should consider the implications of withdrawing the Route Permit Application prior to granting or denying it.

On September 6, 2019, DCW updated its Site Permit and CON Applications, explaining that it is currently evaluating new points of interconnection and expects to file a new Route Permit Application in the first quarter of 2020. Hence, the appropriate time to consider the

merits of the need and route for the DCW transmission gen-tie will be after the filing of the new Route Permit Application. At that time, LIUNA can raise any concerns that it may have with the new transmission gen-tie, and, therefore, LIUNA is not prejudiced by the withdrawal of the current Route Permit Application. To proceed with the current Route Permit Application serves no purpose, because the Application has been rendered moot by the withdrawal of MISO interconnection queue position no. J441. Further, it would be an inefficient use of resources to continue to review the Application when DCW is no longer requesting that the Commission approve it. Accordingly, DCW requests the Commission grant DCW's request to withdraw its current Route Permit Application.

B. The Commission has the authority to consider a CON Application for the Site Permit without a specifically identified point of interconnection.

The Commission has the authority to consider a CON Application for the DCW wind project now, and review the CON Application for the DCW transmission gen-tie starting in the first quarter of 2020. First, there is no legal requirement that the Commission simultaneously review a CON Application for a wind project and transmission line gen-tie. Second, the regulations addressing a need for the wind project do not focus on the point of interconnection or the need for the transmission gen-tie, but, rather, on the need for the renewable resource and alternatives to that resource. Third, as evidenced in the September 6, 2020 updated CON and Site Permit Applications, DCW will in the near future have a specific point of interconnect that will be considered in the new Route Permit Application and associated CON Application. Accordingly, not only does the Commission have the authority to review a CON Application for a wind project without a specific point of interconnection, there is no practicable reason to delay the review of the CON Application for the DCW wind project, as the need for the point of

interconnection will be considered in due time and when a CON Application in support of the new Route Permit Application is filed in the first quarter of 2020.

C. The updated CON and Site Permit Applications are complete and should be reviewed.

On September 6, 2019, DCW updated the CON and Site Permit Applications, making the following updates: (1) identifying the eight new safe harbor turbines to be used if construction occurs in 2021, including the sound and shadow flicker results associated with the use of these safe harbor turbines; (2) providing additional information on the need for the wind project, given that the off-taker of the wind energy may change; and (3) indicating that the point of interconnection will be identified, and that a separate CON and Route Permit Applications will be filed to support the need and siting of the new transmission gen-tie in the first quarter of 2020. DCW also filed updated maps to include the use of the new safe harbor turbines. These changes do not impact the completeness of the Site Permit and its associated CON Application, which the Commission found to be substantially complete on October 4, 2018. Thus, the Commission should continue to find the updated Applications are substantially complete.

D. The draft Environmental Impact Statement is no longer relevant.

The July 29, 2019 draft Environmental Impact Statement (“EIS”) is no longer relevant, because it was triggered by the size and length of the now moot 345 kV transmission gen-tie. Further, the EIS was route-specific, and it is unclear what, if any, of the routes proposed in the Route Permit Application will be proposed in the new Route Permit Application. Maintaining an EIS that pertains to routes no longer under consideration can only lead to confusion.

Further, the new Route Permit Application may include a transmission gen-tie that is at a voltage level and length that does not require an EIS. Therefore, there is no need to continue

with the EIS. Instead, under the Commission's statutes and regulations, an environmental report could be issued for the proposed wind project based on the information in the Site Permit Application, rather than an EIS. Minn. R. 7854.0500, subp. 7. Accordingly, DCW requests that the Commission return the case back to Judge Mortenson to issue a new proposal schedule for the review of the Site Permit Application that includes time for the Department of Commerce (“DOC”) to issue an environmental report on DCW’s wind project.

E. The Commission should continue to review the updated Site Permit and CON Applications.

The Commission should direct Judge Mortenson to continue to review the updated Site Permit and CON Applications. As already explained, the updates to these Applications are minimal. Also, there has already been considerable discovery and direct testimony filed by all parties on the Site Permit and CON Applications. The minimal changes to the Site Permit and CON Applications do not warrant re-starting of the process,¹ but, rather, warrant an opportunity for LIUNA and DOC to issue discovery and update their direct testimony, with the understanding that discovery and updates to testimony would be appropriately limited to the September 6, 2019 updates and DOC’s environmental report. Thereafter, the procedural schedule should proceed as already set forth by Judge Mortenson with appropriate adjustments to the new filing and hearing dates. Given that the proceeding has already been designated as a contested case, DCW has no objection to continuing under the contested case process so that the case can be heard and decided in a timely manner.

¹ Amendments and updates to wind site permit applications have been submitted in the normal course of other proceedings without the Commission re-starting the process or re-considering the completeness of the applications. *See e.g., Palmer’s Creek Wind Farm, LLC’s* March 22, 2018 Amendment filed in Docket No. IP-6979/WS-17-265 after the Administrative Law Judge’s Report was issued, which included project layout changes to 4 of the 18 proposed wind turbines and minor shifts to associated collector lines, access roads, and temporary crane paths; *see also, Red Pine Wind Farm, LLC’s* various updates filed between January 25 through March 2, 2017 in Docket Number: IP-6646/WS-16-618, including an updated project layout, turbine specifications, sound and shadow flicker reports, an updated avian and bat protection plan, and information on calcareous fens.

F. The Commission should deny LIUNA's Motion to Compel.

On July 26, 2019, and as updated on September 13, 2019, DCW filed a reply to LIUNA's Motion to Compel, showing that Motion was without merit. Although DCW will not repeat the arguments and evidence presented in its reply, DCW renews its request that the Commission deny the Motion to Compel for the reasons set forth in DCW's reply.

III. Conclusion

For the reasons set forth herein, DCW respectfully requests that the Commission grant DCW's request to withdraw the Route Permit Application, and revert the case back to Judge Mortenson to continue to review the update Site Permit and CON Applications with an updated procedural schedule.

Dated: September 27, 2019

Brian J. Murphy
Managing Attorney
NextEra, Energy Resources, LLC
700 Universe Blvd.
Juno Beach, FL 33408
(561) 694-3814
Brian.J.Murphy@nee.com
Admitted *Pro Hoc Vice*

Respectfully Submitted,

/s/ Andrew Gibbons

Andrew Gibbons
Stinson LLP
50 South Sixth Street
Suite 2600
Minneapolis, Minnesota 55402
(612) 335-1451
andrew.gibbons@stinson.com

**STATE OF MINNESOTA
BEFORE THE
PUBLIC UTILITIES COMMISSION**

Katie Sieben	Chair
Dan Lipschultz	Commissioner
Matthew Schuerger	Commissioner
John Tuma	Commissioner
Valerie Means	Commissioner

In the Matter of the Application of Dodge County Wind, LLC for a Certificate of Need for the Dodge County Wind Project and Associated Facilities in Dodge, Steele, and Olmsted Counties, Minnesota

MPUC Docket No.
IP-6981/CN-17-306

In the Matter of the Application of Dodge County Wind, LLC for a Site Permit for the Dodge County Wind Project and Associated Facilities in Dodge and Steele Counties, Minnesota

MPUC Docket No.
IP-6981/WS-17-307

In the Matter of the Application of Dodge County Wind, LLC for a Route Permit for the 345 kV High-Voltage Transmission Line Associated with the Dodge County Wind Project in Dodge and Olmsted Counties, Minnesota

MPUC Docket No.
IP-6981/TL-17-308

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of **Dodge County Wind, LLC’s Initial Comments** has been served today by e-mail and/or U.S. Mail to the following:

Name	Email/Address	Delivery Method
Generic – Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Electronic
Jason Czczok	office@byronfuneralhome.com	Electronic
Brenda Davis	Bdavis.asset@gmail.com	Electronic
Melissa DeVetter	melissa.devetter@co.dodge.mn.us	Electronic
Generic – Residential Utilities	residential.utilities@ag.state.mn.us	Electronic

Name	Email/Address	Delivery Method
Dennis Edgar	66441 240th Ave Kasson, MN 55944	Paper
Sharon Ferguson	sharon.ferguson@state.mn.us	Electronic
Andrew Gibbons	andrew.gibbons@stinson.com	Electronic
Katherine Hinderlie	katherine.hinderlie@ag.state.mn.us	Electronic
Linda Jensen	linda.s.jensen@ag.state.mn.us	Electronic
Peter Madsen	peter.madsen@ag.state.mn.us	Electronic
Brian Meloy	brian.meloy@stinson.com	Electronic
James Mortenson	james.mortenson@state.mn.us	Electronic
Brian J. Murphy	Brian.J.Murphy@nec.com	Electronic
Carol A. Overland	overland@legalelectric.org	Electronic
Gene Peters	gpete1951@aol.com	Electronic
Tom Rother	tomr@netmanco.com	Electronic
Janet Shaddix Elling	jshaddix@janetshaddix.com	Electronic
Mike Weich	Mike.Weich@nexteraenergy.com	Electronic
Edward Westin	eawestin@hotmail.com	Electronic
Daniel P. Wolf	dan.wolf@state.mn.us	Electronic

Dated this 27th day of September, 2019

/s/ Joshua M. Feit

Joshua M. Feit