

BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
600 North Robert Street
St. Paul, MN 55101
FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 Seventh Place East Suite 350
St. Paul, MN 55101

In the Matter of the Application of Flying Cow Wind, LLC for a Certificate of Need for the 152 MW Large Wind Energy Conversion System in Yellow Medicine County, Minnesota; MPUC Docket No. IP-6984/CN-17-676
MPUC Docket No. IP-6984/WS-17-749
OAH Docket No. 60-2500-35035

In the Matter of the Application of Flying Cow Wind, LLC for a Site Permit for the up to 152 MW Large Wind Energy Conversion System in Yellow Medicine County, Minnesota;

Laborers District Council of Minnesota & North Dakota
Proposed Findings

INTRODUCTION

Laborers District Council of Minnesota & North Dakota proposes the following modification to the proposed findings submitted by applicant. Laborers District Council of Minnesota & North Dakota believes that the Applicant has failed to demonstrate that the project meets Minnesota's wind energy site permitting requirements because the record does not yet support a conclusion that the project represents efficient use of wind energy resources, nor that it represents a sustainable development.

The local socioeconomic impacts of the project are a particular concern. The Laborers Union has disputed the applicant's claims of socioeconomic benefits by providing evidence that job-related benefits are minimized by applicant's reliance on non-local construction labor, and far outweighed by the project's likely impact on the viability of competing projects and on the local tourist economy, which is a key source of employment in Yellow Medicine County.

The evidence in the record shows that the local workers, residents, and communities, residents could be better served if the Commission were to reject Bitter Root and instead approve one of many proposed wind projects that could be expected to produce similar tax and lease benefits, while creating more local jobs and economic activity, as well as fewer negative impacts to the local economy.

These proposed findings are responsive to the proposed findings submitted by applicant: and are cross referenced to the paragraph numbers on that submission.

PARTIES AND PARTICIPANTS

1. Strike from paragraph 2: “RES designs, constructs, and operates its facilities in an environmentally-sound and responsible manner.” The record does not contain sufficient evidence on the company’s design, construction, and operations practices to draw general conclusions on their environmental soundness or the overall responsibility of the company’s conduct.

PROCEDURAL SUMMARY

2. After Applicant’s paragraph 21 add new paragraph: “The substance of the public comments was as follows: 18 comments cited potential negative impacts to Lake Cochrane; 17 comments raised concerns about or emphasized the importance of local construction hiring; 17 comments cited potential wildlife impacts; 10 cited positive economic impacts; 9 requested a three-mile setback from Lake Cochrane; 21 cited other potential negative impacts such as reduced property values, light pollution, health effects, aircraft obstruction and drain tile damage; and 9 made other positive comments about the project.¹” Please see attached comment summary for further detail.
3. Add to end of Applicant’s paragraph 28: “Flying Cow Wind also opposed the motion for contested case as to the Site Permit on the grounds that it was premature.”
4. Add to end of Applicant’s paragraph 33: “Ten of the sixteen additional written comments raised concerns the need for more data on local hire and the lack of a firm and verifiable commitment from the developer to use local workers.²”
5. At end of Applicant’s Procedural Summary add paragraph: “On July 18, 2018, Intervenor’s filed a request for a Contested Case Hearing for both Certificate of Need and Site Permit proceedings. The motion

SITE LOCATION AND CHARACTERISTICS

6. In Applicant’s paragraph 14 replace “The county is predominantly rural with an agricultural economic base.” with “Yellow Medicine County is located in a largely rural area of the state, but agriculture accounts for just three percent of jobs in the county, while the leisure and hospitality industry provides 15 percent of area jobs, according to

¹ Ex. 103 (Public Comments), Ex. 104 (Public Comments Received on the Scope of the Environmental Report – Oral Comments), Ex. 105 (Public Comments Received on the Scope of the Environmental Report – Written Comments), and Ex. 106 (Public Comments Received During Extended Comment Period).

² *Id.*

data from the U.S. Census Quarterly Workforce Indicators.³ Yellow Medicine County is far more reliant on leisure and hospitality employment than other wind host counties such as Lincoln and Pipestone, where the leisure and hospitality industry provides just seven to eight percent of jobs.”⁴

SUMMARY OF PUBLIC COMMENTS

7. In Applicant’s paragraph 34 replace “Mr. Nate O’Reilly questioned what steps will be taken to ensure that construction jobs are filled with local workers, and questioned whether Flying Cow Wind would make a commitment to hire local workers or have a Site Permit condition regarding local hiring.” with “Mr. Nate O’Reilly questioned what steps will be taken to ensure that construction jobs are filled with local workers, citing a recent area wind project where 80 to 90 percent of the workforce was non-local, and questioned whether Flying Cow Wind would make a commitment to hire local workers or have a Site Permit condition regarding local hiring.”
8. In Applicant’s paragraph 38 replace “Mr. Will Thomssen noted that he is a certified crane operator, and requested to be put to work on the Project.” with “Mr. Will Thomssen noted that he is a certified crane operator, and that he and others like him are qualified and ready to work on the Project.”
9. In Applicant’s paragraph 45 replace “Multiple commenters” with “Roughly two-dozen commenters”
10. In Applicant’s paragraph 47, replace “Multiple commenters” with “Approximately 10 commenters”
11. In Applicant’s paragraph 48, replace “Mr. Karels also requested that quarterly reporting requirements related to the use of local construction workers be required, and questioned what commitments Flying Cow Wind is willing to make regarding hiring of local workers.” with “Mr. Karels also observed that the Commission should consider use of local workforce when approving projects because the approval of a project that employs few local workers could “come at the expense of another that brings with it greater benefits. Mr. Karels finally requested that quarterly reporting requirements related to the use of local construction workers be required, and questioned what commitments Flying Cow Wind is willing to make regarding hiring of local workers.”
12. Substitute Applicant’s paragraph 57, replace “Mr. Stacey Karels on behalf of the Mankato Building Trades commented on his experience with contractors that are required to utilize a certain percentage of local workers.” with “Mr. Stacey Karels on behalf of the Mankato Building Trades commented on his experience with area wind energy projects

³ Testimony submitted by Katie Hatt as attachment to Intervenors Petition for Contested Case Hearing, July 18, 2018 at 4.

⁴ Ibid.

that were built by union contractors that employ largely local workforce. Mr. Karels also cited the opportunity for wind energy projects to recruit local workers into construction careers.”

13. Substitute Applicant’s paragraph 57 with “Ms. Katie Hatt, the Executive Director of the North Star Policy Institute presented on two reports recently published by the North Star Policy Institute on the impact of local and nonlocal hiring on upcoming wind farm construction projects, including the proposed Bitter Root project.⁵ Ms. Hatt highlighted the findings of the research, noting that the local economic impacts of wind energy development are much greater when local workers are hired to build them. Ms. Hatt reported, among other findings:
- The projected difference in economic impact of building a project like Bitter Root with a largely local (50 to 70 percent) and a non-local (10 to 20 percent local) is equivalent to roughly seven years of lease payments or 10 years of production taxes.
 - The local economic activity associated with employment of a local worker on a wind energy project is three times greater than that of a nonlocal worker excluding the value of retirement benefits and four times greater including retirement benefits.
 - Development of a wind energy project that employs a largely nonlocal construction workforce could negatively impact the local economy if it displaces a competing project that would have employed more local workers.⁶
14. At end of Summary of Public Comments section add the following paragraphs:
- a. Mr. Flannery and Mr. Berzins, speaking on behalf of Flying Cow Wind, acknowledged that in RES’s role as both developer and contractor, the company directly oversees the construction process, including hiring of workers and subcontractors, and should have access to highly-detailed information on the workforce that was employed on the construction of Pleasant Valley and other RES wind projects.⁷
 - b. Mr. Berzins indicated that local workers accounted for eight of 24 RES employees working on the construction of the nearby Stoneray Wind project.⁸
 - c. Mr. Brian Lammers, speaking on behalf of RES and Flying Cow Wind, declined to consider making a commitment to local construction hiring citing concerns about the availability of workforce that meets the company’s labor and safety standards as well as the need for the project to remain cost-competitive.⁹

Socioeconomic Considerations

⁵ Public Hearing Tr. at 58:9 – 63:21 (Hatt).

⁶ Ibid.

⁷ Public Hearing Tr. at 85:17-95:19 (Flannery and Berzins).

⁸ Public Hearing Tr. at 91:2-18 (Berzins).

⁹ Public Hearing Tr. at 98:19-99:16 (Lammers).

14. In Applicant’s paragraph 87, replace “The county is predominantly rural with an agricultural economic base.” with “The county is predominantly rural with a diverse economic base with 23% of workers employed in healthcare and social assistance, 15% in leisure and hospitality, 11% in retail trade and 11% in educational services.” In 2012, approximately 81% (395,027 acres) of the land in Yellow Medicine County was occupied by farms. The population of the county in 2015 was estimated to be 10,092, with an estimated average household size of 2.42 people. The 2015 median household income was \$53,041.¹⁰
15. Replace Applicant’s paragraph 88 with, “The Project’s impact on the local economy will depend in significant part on the applicant’s utilization of local workforce during the construction phase. The evidence in the record shows that reliance on non-local construction labor could substantially reduce the economic benefit of the project, and that approval of the project could have a negative impact on the local economy if the project displaces competing projects that could have created more construction jobs,¹¹ or if the project negatively affects the hospitality and leisure industry upon which county residents rely heavily for jobs.¹² Finally, the record shows that RES has historically relied,¹³ and continues to rely¹⁴ on a largely nonlocal workforce to build wind energy projects in Minnesota.
16. Total economic impact on the local area will range from approximately \$3.6-12.3 million depending on the percentage of local construction workers utilized on the project.”¹⁵ The Project will benefit the local economy. It will create approximately 150 temporary jobs during construction and approximately four to six permanent jobs. Construction and operation may also increase the local tax base.¹⁶
17. In Applicant’s paragraph 89, replace the last sentence of the paragraph, “No substantial effects on permanent housing in the area are anticipated” with “Concerns were raised by

¹⁰ Site Permit Application at §9.1.1.

¹¹ Testimony and evidence submitted by Katie Hatt and Jeffrey B. Murphy (Ullico Infrastructure Management Company) as attachments to Intervenor’s Petition for Contested Case Hearing, July 18, 2018.

¹² Testimony submitted by Katie Hatt as attachment to Intervenor’s Petition for Contested Case Hearing, July 18, 2018 at 4.

¹³ Affidavit of Sheldon Steele submitted as attachment to Intervenor’s Petition for Contested Case Hearing, July 18, 2018.

¹⁴ Public Hearing Tr. at 91:2-18 (Berzins).

¹⁵ Ex. 502 (Laborers Submission (Katie Hatt))

¹⁶ *Id.* at §9.1.2.

landowners of the possible effects of new turbine construction.¹⁷ Further evidence is needed to determine the precise impacts of new turbine construction on property value information.”

18. In Applicant’s paragraph 90, delete the paragraph. Evidence in Docket has raised questions about Flying Cow LLC’s ability to fully evaluate the socioeconomic impacts with further evidence of local versus non-local hiring and a more complete analysis of the project’s impact on the local tourist economy.¹⁸

Land Based Economies

18. Delete paragraph 97 (“Because all Project facilities will generally be located on private lands, there will be no direct impacts to recreational facilities, public lands, or other tourism-related activities. Proposed setbacks from recreational trails, public roads, and non-leased properties (including public lands) will minimize any indirect impacts.”). Evidence in the Docket raising serious questions about this claim.¹⁹

Local Economies

20. In Applicant’s paragraph 105, add to the end of the paragraph: “These findings, however, might not generalize to the Yellow Medicine County given the county’s relatively high reliance on leisure and hospitality employment compared to the largely agricultural counties that have historically hosted wind development in Southwest Minnesota.”²⁰

21. Delete paragraph 107. Without firm commitments on local versus non-local hiring, we cannot evaluate the extent on the benefits to the local economic community.²¹

Site Permit Conditions

22. In Applicant’s paragraph 198, Intervenor believes that the proposed permit condition would obscure rather than illuminate the use of local and nonlocal labor on the Project by, among other failings, apparently treating a subcontracted construction worker who spent a week, a day or even an hour onsite no differently than a RES

¹⁷ Ex. 105 (Public Comments Receive o the Scope of the Environmental Report - Written Comments).

¹⁸ Ex. 502 (Laborers Submission (Katie Hatt)) and Testimony submitted by Katie Hatt as attachment to Intervenor’s Petition for Contested Case Hearing, July 18, 2018 at 4.

¹⁹ Testimony submitted by Katie Hatt as attachment to Intervenor’s Petition for Contested Case Hearing, July 18, 2018 at 4.

²⁰ Testimony submitted by Katie Hatt as attachment to Intervenor’s Petition for Contested Case Hearing, July 18, 2018 at 4.

²¹ Ex. 502 (Laborers Submission (Katie Hatt))

employee who logged 2,000 or more hours of work on the project. The Commission would be poorly served by data that potentially misrepresents the local content of construction work on the project.

23. replace paragraph with: “Laborers District Council of Minnesota & North Dakota requests the following permit condition regarding local labor reporting, similar to what was agreed to in the Nobles 2 project. Applicant’s proposed permit condition:

“The Permittee shall file quarterly reports with the Commission within 45 days of the end of the quarter regarding construction workers that participated in construction of the project. Reports shall include (a) the gross number of hours worked by or full-time equivalent workers who are Minnesota residents, as defined in Minn. Stat. 290.01, Subd. 7, during the quarter in which they participated in construction of the project; (b) the gross number of hours worked by or full-time equivalent workers of people who live in other states but are within 150 miles of the project during construction of the project.; and (c) total gross hours or full-time equivalent workers. Permittee shall work with its contractor to determine suitable reporting metrics. Reports shall begin with the commencement of site construction and continue until completion of site restoration.”

Dated: August 6, 2018



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