

The Commission met on **Thursday, September 20, 2018** with Chair Lange and Commissioners Lipschultz, Schuerger, Sieben, and Tuma present.

The following matters were taken up by the Commission:

**E-999/CI-03-802**

**In the Matter of an Investigation into the Appropriateness of Electric Energy Cost Adjustments**

Commissioner Sieben moved that the Commission:

1. Revise the implementation date for the new fuel clause adjustment process to January 1, 2020.
2. Beginning January 1, 2020, until the end of the pilot or as otherwise ordered, require all subsequent fuel clause adjustment annual compliance filings to be based on a calendar year and filed by March 1 of the year following the relevant calendar year.
3. Allow Xcel, Minnesota Power, and Otter Tail to continue operating the existing fuel clause adjustment through December 31, 2019. The compliance filing for the July 2018–December 2019 period will be due March 1, 2020.
4. Vary Minn. R. 7825.2600, subp. 3, to accommodate the new fuel cost adjustment method. Require the utilities and other stakeholders to work with the Department to identify any further required variances.
5. Discontinue monthly automatic adjustment filings once the new fuel clause adjustment process is implemented.
6. Require the parties to work with the Department to finalize the filing schedule for the annual fuel clause proceedings.
7. Require Xcel, Minnesota Power, and Otter Tail to work with the Department and other stakeholders to develop a standard for what qualifies as a significant unforeseen impact that would justify an adjustment to the approved fuel clause rates.
8. Directs the parties to develop a mechanism to address the potential for regulatory lag in recovering actual fuel costs, which may include provisional implementation of adjusted rates.
9. Require each utility to file its annual fuel clause adjustment report in a separate docket.

10. Before the lessons-learned reports are filed three years after implementation of the new fuel clause adjustment process, parties will discuss what information will be included in those reports.

11. Require that all changes approved in this docket remain in effect indefinitely.

The motion passed 5-0.

**P-999/R-18-518**

**In the Matter of the Possible Rulemaking to Amend Minnesota Rules Chapter 7854**

Commissioner Tuma moved that the Commission deny the rulemaking petition without prejudice.

The motion passed 5-0.

**IP-6946/WS-17-410**

**In the Matter of the Application of Freeborn Wind Energy LLC for a Large Wind Energy Conversion System Site Permit for the 84 MW Freeborn Wind Farm in Freeborn County**

Commissioner Lipschultz moved to do the following:

1. Adopt the findings, conclusions, and recommendations set forth in the Findings of Fact, Conclusions of Law, and Recommendations (ALJ Report) issued by the Administrative Law Judge (ALJ), but modified as follows:
  - A. Exclude Finding of Fact 206 and
  - B. Incorporate the recommended modifications set forth in Attachment B to the September 20, 2018 Briefing Papers.
2. Require Freeborn Wind Energy LLC (Freeborn Wind) to provide an updated preconstruction noise analysis that demonstrates the project will comply with the noise permit conditions and modified by Attachment A proposed by Freeborn Wind in its September 19, 2018 filing.

6.0 Special Conditions

Special conditions shall take precedence over other conditions of this permit should there be a conflict.

## 6.1 Pre-Construction Noise Modeling

Freeborn Wind Energy LLC shall file a plan, including modeling and/or proposed mitigation, at least 60 days prior to the pre-construction meeting that demonstrates it will not cause or significantly contribute to an exceedance of the MPCA [Minnesota Pollution Control Agency] Noise Standards.

To ensure that the turbine-only noise does not cause or significantly contribute to an exceedance of the MPCA Noise Standards, modeled wind turbine-only sound levels (NARUC ISO 9613-2 with 0.5 ground) at receptors shall not exceed 47 dB(A) L<sub>50</sub>-one hour. Given this, at no time will turbine-only noise levels exceed the MPCA Noise Standards, and when total sound does exceed the limits it will be primarily the result of wind or other non-turbine noise sources. Under these conditions, the contribution of the turbines will be less than 3 dB(A), which is the generally recognized minimum detectable change in environmental noise levels (non-laboratory setting). For example, when nighttime background sound levels are at 50 dB(A) L<sub>50</sub>-one hour, a maximum turbine- only contribution of 47 dB(A) L<sub>50</sub>-one hour would result in a non-significant increase in total sound of less than 3 dB(A).

## 6.2 Post-Construction Noise Modeling

If the Noise Studies conducted under Section 7.4 document an exceedance of the MPCA Noise Standards where turbine-only noise levels produce more than 47 dB(A) L<sub>50</sub>-one hour at nearby receptors, then the Permittee shall work with the Department of Commerce to develop a plan to minimize and mitigate turbine-only noise impacts.

By inclusion of these special conditions, the Commission is not establishing any noise standard or offering any interpretation of the current MPCA noise standard as applied to wind facilities.

3. Issue the Draft Site Permit authorized by the Commission in its January 30, 2018 order with the permit amendments recommended by Commission staff and the modifications listed below:
  - A. Include the Department's June 8, 2018 proposed changes regarding Shadow Flicker incorporated as Paragraph 7.2 of the site permit as set forth below:

### Section 7.2 Shadow Flicker

At least 14 days prior to the pre-construction meeting, the Permittee shall provide data on shadow flicker for each residence of non-participating

landowners and participating landowners within and outside of the project boundary potentially subject to turbine shadow flicker exposure. Information shall include the results of modeling used, assumptions made, and the anticipated levels of exposure from turbine shadow flicker for each residence. The Permittee shall provide documentation on its efforts to avoid, minimize and mitigate shadow flicker exposure. ~~The A Shadow Flicker Management Plan will be prepared by the Permittee, which will include the results of any shadow flicker modeling, assumptions made, levels of exposure prior to implementation of planned minimization and mitigation efforts, planned minimization and mitigation efforts, and planned communication and follow up with residence.~~ The Shadow Flicker Management Plan shall be filed with the Commission at least 14 days prior to the pre-construction meeting to confirm compliance with conditions of this permit.

Should shadow flicker modeling identify any residence that will experience in **30** hours, or more, of shadow flicker per year, the Permittee must specifically identify these residences in the Shadow Flicker Management Plan. If through minimization and mitigation efforts identified in the Shadow Flicker Management Plan the Permittee is not able to reduce a residence's anticipated shadow flicker exposure to less than 30 hours per year a ~~Shadow shadow~~ shadow flicker detection systems will be utilized during project operations to monitor shadow flicker exposure at the residence. ~~at receptor locations that were anticipated to receive over 30 27 hours of shadow flicker per year. The Permittee will submit a Shadow Flicker Monitoring and Management Plan at least 14 days prior to the pre-construction meeting.~~ The Shadow Flicker ~~Monitoring and~~ Management Plan will detail the placement and use of any shadow flicker detection systems, how the monitoring data will be used to inform turbine operations, and a detailed plan of when and how turbine operations will be adjusted to mitigate shadow flicker exposure exceeding 30 hours per year at any one receptor. The results of **any** shadow flicker monitoring and mitigation implementation will be reported by the Permittee in the Annual Project Energy Production Report identified in Section 10.8 of this Permit.

Commission staff and [the Department's Energy Environmental Review and Analysis] EERA staff will be responsible for the review and approval of the Shadow Flicker Management Plan. The Commission may require the Permittee to conduct shadow flicker monitoring at any time during the life of this Permit

- B. Include KAAL-TV, LLC's proposed changes to the Draft Site Permit's Attachment A (Complaint Handling Procedures), as offered at the Commission's September 20, 2018 hearing and set forth below:

Paragraph D [Section IV]: Definitions

Complaint: A verbal or written statement presented to the permittee by a person expressing dissatisfaction or concern regarding site preparation, cleanup or restoration or, television or communication signals, or other site and associated facilities permit conditions. Complaints do not include requests, inquiries, questions or general comments.

Paragraph F [Section VI]: Reporting Requirements

The permittee shall commence complain reporting at the beginning of project construction and continue through the term of the permit. The permittee shall report all complaints to the Commission according to the following schedule:

Immediate Reports: All substantial complaints shall be reported to the Commission the same day received, or on the following working day for complaints received after working hours. Such reports are to be directed to the Commission's Consumer Affairs Office at 1-800657-3782 (voice messages are acceptable) or [consumer.puc@state.mn.us](mailto:consumer.puc@state.mn.us). For e-mail reporting, the e-mail subject line should read "PUC EFP Complaint" and include the appropriate project docket number.

Monthly Reports: During project construction ~~and~~, restoration, and operation, a summary of all complaints, including substantial complaints received or resolved during the preceding month, shall be filed by the 15<sup>th</sup> of each month to Daniel P. Wolf, Executive Secretary, Public Utilities <https://www.edockets.state.mn.us/Efiling/home.jsp> If no complaints were received during the preceding month, the permittee shall file a summary indicating that no complaints were received.

C. Include the following changes to Section 11.1 of the Site Permit:

Decommissioning Plan

The Permittee shall submit a decommissioning plan to the Commission at least ~~sixty~~ fourteen days prior to the pre-operation meeting, and provide updates to the plan every five years thereafter. The plan shall provide information identifying all surety and financial securities established for decommissioning and site restoration of the project in accordance with the requirements of Minn. R. 7854.0500, subp. 13. The decommissioning plan shall provide an itemized breakdown of costs of decommissioning all project components, which shall include labor and equipment. The plan shall identify

cost estimates for the removal of turbines, turbine foundations, underground collection cables, access roads, crane pads, substations, and other project components. The plan may also include anticipated costs for the replacement of turbines or repowering the project by upgrading equipment.

The Permittee shall also submit the decommissioning plan to the local unit of government having direct zoning authority over the area in which the project is located. The Permittee shall demonstrate that it will ~~ensure that it carries out its obligations to~~ provide for the resources necessary to fulfill its requirements to properly decommission the project at the appropriate time. The Commission may at any time request the Permittee to file a report with the Commission describing how the Permittee is fulfilling this obligation.

4. Authorize Commission staff to make further modifications to the findings of fact, conclusions of law, and recommendations that form the basis for the Commission's decision as necessary to ensure consistency with the record, the language of recently issued permits, and the Commission's decision in this matter.

The motion passed 5-0.

**IP-6946/TL-17-322**

**In the Matter of the Application of Freeborn Wind Energy LLC for a Route Permit for the Freeborn Wind Transmission Line in Freeborn County**

Commissioner Lipschultz moved to do the following:

1. Approve and adopt the findings, conclusions, and recommendations in the ALJ's July 26, 2018 Findings of Fact, Conclusions of Law, and Recommendations (ALJ Report), with modifications.
2. Find that the environmental assessment and the record at the public hearing addressed the issues identified in the environmental assessment scoping decision.
3. Issue the proposed high-voltage transmission line route permit with appropriate conditions to Freeborn Wind for Orange Route combined with the Purple Paralleling Route Segment.
4. Require the site permit to include the Special Conditions included in the ALJ Report with the exception of Special Condition 6.1 and limiting the application of Special Condition 6.4 to the Shell Rock River area.

5. Authorize Commission staff to make further findings of fact or permit modifications necessary to ensure consistency with the Commission's decision in the matter and recently issued permits.

The motion passed 5-0.

There being no further business, the meeting was adjourned.

**APPROVED BY THE COMMISSION: April 10, 2019**

A handwritten signature in black ink that reads "Daniel P. Wolf". The signature is written in a cursive, flowing style.

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**Daniel P. Wolf, Executive Secretary**