

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Dan Lipschultz	Commissioner
Matthew Schuerger	Commissioner
Katie J. Sieben	Commissioner
John A. Tuma	Commissioner

In the Matter of the Site Permit Amendment  
Application for Repowering the Fenton Wind  
Project in Murray and Nobles Counties

ISSUE DATE: March 8, 2019

DOCKET NO. PT-6499/WS-05-1707

ORDER APPROVING SITE PERMIT  
AMENDMENTS

## PROCEDURAL HISTORY

### I. Project History

The Fenton Wind Project is an existing 205.5 megawatt (MW) Large Wind Energy Conversion System (LWECS) operating in Murray and Nobles Counties in southwestern Minnesota (the Project). The Commission issued a site permit for the Project to Fenton Wind (Fenton), a subsidiary of EDF Renewables, Inc., on April 13, 2006. The Commission issued a subsequent permit amendment on January 2, 2008 (clarifying the permittee name). As constructed, the facility included 137 1.5 MW turbines. The Project has a 20-year Power Purchase Agreement with Xcel Energy.<sup>1</sup>

On October 1, 2018, Fenton submitted an application with the Commission to retrofit the existing wind turbines by installing larger rotors, upgraded gear boxes, and other associated components. Fenton is not proposing to modify the site permit boundary as a result of the retrofitting. The original permitted area encompasses about 38,000 acres. Fenton has leases on approximately 18,000 acres within the site, but is presently negotiating additional acres of wind rights only leases.

### II. The Review Process

#### A. Wind Project Repowering

LWECS permitting is governed by Minn. Stat. Chapter 216F and Minn. R. Chapter. 7854, which mandate that each LWECS is sited “in an orderly manner compatible with environmental preservation, sustainable development, and the efficient use of resources.”<sup>2</sup> Under Minn. R.

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<sup>1</sup> The Project is exempt from the Certificate of Need requirements as the power is sold directly to Xcel to meet the state’s Renewable Energy Standard, Minn. Stat. § 216B.1691.

<sup>2</sup> Minn. Stat. § 216F.03; Minn. R. 7854.0200. EERA has also produced a document entitled *Application Guidance for Site Permitting of Large Wind Energy Conversion Systems in Minnesota*, intended to

7854.1300, subp. 2, the Commission may amend a site permit for an LWECS at any time if the Commission has good cause to do so.

## **B. Initial Comments**

On October 23, 2018, the Department of Commerce Energy Environmental Review and Analysis (EERA) concluded that the Application was properly developed using the EERA LWECS guidance document and contained the appropriate information identified under Minn. R. 7854.0500.<sup>3</sup>

On October 30, 2018, the Commission issued a Notice of Public Information Meeting and Comment Period, providing information about the Project and requesting comment on whether the Commission should approve the application.

On November 15, 2018, the Commission held the noticed public information meeting regarding the application in Edgerton, Minnesota. Approximately 40 members of the public attended. Question and comments addressed a number of issues, including increased project noise, concerns over associated wind-access buffer waivers by Fenton, negotiations for waivers, process concerns, concerns relating to the original construction and responsiveness of the developer, and use of local and union labor.

The Commission accepted written comments until December 5, 2018 for initial comments and December 12, 2018 for reply comments.

Fenton requested additional time to file reply comments; and filed supplemental information on January 9, 2019. Fenton responded to issues raised by the Minnesota Department of Natural Resources (DNR) regarding native prairie and the Project's bird and bat conservation plan. Fenton also responded to the questions posed by the public and state agencies.

## **C. Subsequent Comments**

A second round of comments was authorized on January 11, 2019, on Fenton's original proposal and its Supplemental Comments. Written comments were accepted until February 1, 2019. Several members of the public, the EERA, Fenton, and the attorney for one of the landowners filed comments.

On January 22, 2019, EERA filed comments and a proposed draft site permit. EERA reviewed the record and responded to initial comments made. Based on the record, EERA recommended the Commission take the following actions:

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provide applicants and preparers of LWECS applications with information on how to prepare a complete site permit application.

<sup>3</sup> The EERA also recommended that the application be reviewed under a process informally developed by EERA and Commission staff. The review process for the repowering or retrofit-based site permit amendments includes submission of the application, EERA review of the application for completeness, a public meeting and comment period, EERA recommendation of merits of application, and a Commission decision.

- Approve the requested site permit amendments relating to the proposed project changes, including: rotor diameter, output, nameplate capacity, expiration date, and permit term; and
- Approve the modified rotor diameter setbacks requested by Fenton.

EERA did not identify other issues or concerns related to this matter, and stated that the issues and concerns identified during the initial comment period by the public, agencies, organizations, and the EERA have been addressed by Fenton in its supplemental filings and reply comments.

Finally, EERA stated that it had updated the draft site permit to include Fenton’s requested changes to update statutory language, wind access buffer, internal turbine spacing requirements, project energy production, and an extension of the permit expiration date.

Fenton filed additional reply comments on February 1, 2019, raising two issues with the changes to the EERA’s proposed draft site permit.

On February 21, 2019, the Commission met to consider the matter.

## **FINDINGS AND CONCLUSIONS**

### **I. Fenton’s Proposal**

On October 1, 2018, Fenton Power Partners I, LLC (Fenton or Applicant) submitted an application for amendments to its site permit to repower/retrofit the Project to increase the existing turbines from 1.5 to 1.62 MW for 136 of the turbines. The Project would install larger rotors (increasing blade length from 77 to 91 meters), upgraded gear boxes, and associated components. The retrofit will not require additional or upgraded cables or turbine towers. The retrofit will increase capacity with upgraded generators (from 205.5 to 221 MW).<sup>4</sup>

Fenton is requesting the following modifications or approvals:

- Modify the listed nameplate capacity from “up to 205.5 MW” to “up to 221 MW”;
- Retain the current permitted 2x5 rotor diameter (RD) wind access buffer, but authorize a waiver to certain turbines wind access buffer setbacks that no longer will meet the 2x5 RD setback from non-participating property lines;
- Update internal spacing requirement to the current standard of 3 x 5 Rotor Diameters;
- Use of the current permit language relating to the filing of wind speed data; and
- Update the expiration date of the permit to allow for operation for 30-years from the date of the amended site permit.

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<sup>4</sup> Fenton states that it plans to cap the delivery of energy to the point of interconnection to that which was originally approved (205.5 MW) at this time, but requested that the Commission increase the capacity stated in the site permit to 221 MW to allow increased energy production output in the future.

## II. Key Issues

### A. Internal Spacing and Wind Access Buffer

#### 1. Internal Turbine Spacing

The current requirement used for wind project internal spacing is 3 x 5 rotor diameters (in the non-prevailing wind directions, respectively). Fenton was initially permitted to use a 4 rotor diameter crosswind spacing (distance between turbines) and 7 rotor diameter downwind spacing (distance between strings of turbines) in its 2006 site permit, but as part of the repowering amendment petition requested the Commission use a new section 4.10 on Turbine Spacing, which requires internal turbines to be spaced at 3 x 5 rotor diameter prevailing wind setback.<sup>5</sup>

The Commission agrees that use of the 3 x 5 rotor diameter prevailing wind spacing for internal turbines, as agreed to by the parties and as set forth in Section 4.10 of the site permit is consistent with the current practice in other site permits, and will approve it.

#### 2. Wind Access Buffer Standards

Fenton also sought permission in this proceeding to continue to use the 2 rotor diameter x 5 rotor diameter North/South and East/West axis wind access buffer setback approved in its 2006 permit. This setback was required from the perimeter of the site where the Permittee does not hold the wind rights. The wind access buffer standard is a setback from adjacent nonparticipating landowners that protects wind rights and future development options for those landowners.

The Commission finds, however, that the 2 x 5 North/South and East/West axis wind buffer requirement used in the 2006 site permit is not a preferred approach. Recent wind site permits require wind turbines to have a 3 x 5 rotor diameter non-prevailing and *prevailing wind* buffer setback from non-participating landowners. The Commission prefers the currently-used approach, which the Commission finds provides a more reasonable basis to ensure that adjacent landowners' wind is not disturbed by the Fenton Project. Accordingly, the Commission will substitute the following language as a new Section 4.1 of the site permit:

Wind turbine towers shall not be placed less than five rotor diameters on the prevailing wind directions and three rotor diameters on the non-prevailing wind directions from the perimeter of the property where the Permittee does not hold the wind rights, without the approval of the Commission. This section does not apply to public roads and trails.

At the Commission meeting, Fenton stated that it anticipates needing waivers for some 15 turbines if the 3 x 5 rotor diameter prevailing wind setback is adopted. Fenton explained that it is attempting to negotiate with these landowners, but to date has secured agreements with only three. Fenton requested additional time to continue to negotiate with landowners affected by the

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<sup>5</sup> This condition allows for 20 percent non-conforming turbines, with which Fenton believes it is able to conform.

increased setbacks. The Commission will require Fenton to submit a negotiations update within 30 days of the Commission meeting, or March 25, 2019.

## **B. Local and Union Labor**

Five local unions filed written comments in support of the Project, stating that the Project meets the Commission's mandate to support sustainable development and efficient use of wind resources by extending the life of existing facilities, and by maximizing opportunities for needed energy production. They noted that the Project will create jobs for skilled labor construction workers and presents opportunities for local workers to enter the construction trade.

Fenton also met with labor unions to discuss the Project. Section 6.1 of the Draft Site Permit requires Fenton to report labor statistics, and includes examples of quarterly reporting (Example A) and post-construction reporting (Example B). Given the 3-month anticipated construction period for the repowering, Fenton indicated its preference for the post-construction reporting used in Example B.

The Commission finds that the language used in Example A has been used most often in recent wind site permits, including recent amended repowering permits.<sup>6</sup> Further, with the anticipated 3-month construction period for this Project, there may be little difference between the two examples. The Commission will therefore require Fenton to include the language from Example A in Section 6.1 of the permit, as set forth below:

The Permittee shall file quarterly reports with the Commission within 45 days of the end of the quarter regarding construction workers that participated in the construction of the project. The Reports shall (a) detail the Permittee's efforts and the site contractor's efforts to hire Minnesota workers, and (b) provide an account of 1) 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; 2) the gross number of hours worked by or full-time equivalent workers who are residents of other states, but maintain a permanent residence within 150 miles of the project; and 3) the total gross hours worked or total full-time equivalent workers. Permittee shall work with its contractor to determine the suitable reporting metric. The Report may not include personally identifiable data

## **C. Other Proposed Changes to the Site Permit**

The Commission will also approve a number of additional largely uncontested changes to the site permit, including the following:

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<sup>6</sup> See Docket No. IP-6907/WS-13-258 (Trimont Wind Project) and Docket No. IP-6903/WS-18-179 (Lake Benton).

## **1. Noise Standard**

Since the issuance of the original permit for the Project, the Commission has instituted noise modeling and monitoring requirements for wind projects to ensure that the projects comply with the Minnesota Pollution Control Agency (MPCA) noise standard. In comments during this proceeding, the public expressed concern about the potential for increased noise from the retrofit Project. Fenton, in consultation and coordination with the EERA, committed to retrofit all turbines with low-noise trailing edge (LNTE) blades to reduce the noise impacts from the Project.

In its comprehensive review of the Project,<sup>7</sup> the EERA stated that with the use of the LNTE technology, Fenton has demonstrated that this mitigation is adequate to limit the project-related contribution to a noise level that will by itself not exceed MPCA noise limits.

## **2. Shadow Flicker**

No comments or concerns were raised about shadow flicker during the 10 years of operation of the Project. The Commission notes, however, that the shadow flicker modeling indicates that at least one receptor, using varying realistic and/or worst-case assumptions, may have over 50 hours a year of shadow flicker affecting their residence (with an increase from approximately 38 hours per year to 53 hours per year).

Fenton submitted information in its retrofit application that outlined when Fenton would provide shadow flicker mitigation.<sup>8</sup> Recognizing that there is no set standard in Minnesota, the Commission and the EERA have encouraged developers to minimize shadow flicker to reduce the impact to 30-hours per year or less.

The Commission will not impose the rigorous landowner documentation requirements recommended by Fenton, but will instead retain a site permit condition (Section 7.2) requiring the submission of a shadow flicker analysis prior to the pre-constriction meeting and will manage any issues that may arise through the required complaint reporting process.

## **3. Complaint Procedures**

The Commission has amended the complaint reporting procedures (Attachment 1 to the Site Permit) so that complainants have the option to file issues or concerns with the Commission or with the Applicant. Complaint procedures have also been modified to ensure all landowners (and adjacent landowners) receive them. A Commission contact person has also been identified in case of concerns about construction practices on the Project. Finally, the Commission can investigate and/or move the matter to a Commission meeting to stay the site permit until issues are resolved and corrective action taken.

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<sup>7</sup> See EERA comments (January 22, 2019) (this docket).

<sup>8</sup> Fenton indicated that mitigation would be based on daily documentation of duration and times a day for several consecutive months.

#### **4. Turbine Blade Disposal Compliance Filing**

Finally, the Commission will require Fenton to make a compliance filing within 60-days of this Order outlining Fenton's planned disposal or reuse of the replaced turbine components (largely blades), providing the estimated cost, options considered and why they were selected or rejected, and timing for disposal or reuse.

#### **5. Other Uncontested Changes**

Other changes to the site permit include a provision relating to the Minnesota Valley TV microwave beam path, removal of a provision requiring a preconstruction micro-siting analysis, a requirement to file any biological or natural resource surveys conducted for the Project, turbine operational curtailment requirements, a requirement to file an update on the power purchase agreement when it nears the end of the agreement term, and other permit clarifications.

### **III. Commission Action**

After considering the entire record, including the comments submitted, the Commission will issue the amended site permit attached to this order and take further actions detailed below to facilitate implementation of the amended site permit. The purpose of the LWECS site permitting process is to ensure that each LWECS is sited in an orderly manner compatible with environmental preservation, sustainable development, and the efficient use of resources,<sup>9</sup> and the repowering proposal for the Fenton Project achieves these goals.

### **ORDER**

1. The Commission hereby issues the amended site permit attached to this order.
2. Applicant shall file a compliance filing within 60 days of the Commission's order outlining the method for disposal or reuse of the turbine blades, providing the estimated costs, options considered and why they were selected or rejected, and timing for disposal or reuse.
3. Applicant shall file a compliance filing no later than March 25, 2019, containing a report updating the Commission on the status of negotiations with affected landowners who have not accepted the Company's offer and a petition for waivers if any.
4. The Commission delegates authority to the Executive Secretary to set notice and comment requirements in response to the permittee's compliance filings above.

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<sup>9</sup> Minn. Stat. § 216F.03; Minn. R. 7854.0200.

5. The Commission authorizes Commission staff to make further administrative modifications to the permit as necessary to ensure consistency with the record in this case and recently issued permits.
6. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Daniel P. Wolf  
Executive Secretary



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**STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION**

**SITE PERMIT FOR A  
LARGE WIND ENERGY CONVERSION SYSTEM**

**IN  
MURRAY AND NOBLES COUNTIES**

**ISSUED TO  
FENTON POWER PARTNERS I, LLC**

**PUC DOCKET NO. IP6499/WS-05-1707**

In accordance with the requirements of Minnesota Statutes Chapter 216F and Minnesota Rules Chapter 7854 this site permit is hereby issued to:

**FENTON POWER PARTNERS I, LLC**

The Permittee is authorized by this site permit to construct and operate the 221 Megawatt (nameplate capacity) Fenton Wind Repowering Project Large Wind Energy Conversion System and Associated Facilities. The Fenton Wind Repowering Project and associated facilities shall be built within the site identified in this permit and as portrayed on the official site maps, and in compliance with the conditions specified in this permit.

This site permit replaces the versions issued in 2006 and 2008. This site permit shall expire thirty (30) years from the date of this approval.

Approved and adopted this 8th day of March, 2019

BY ORDER OF THE COMMISSION

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Daniel P. Wolf,  
Executive Secretary

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**ATTACHMENTS**

Attachment 1 – Complaint Handling Procedures for Permitted Energy Facilities

Attachment 2 – Compliance Filing Procedure for Permitted Energy Facilities

Attachment 3 – Site Permit Maps

## **1 SITE PERMIT**

The Minnesota Public Utilities Commission (Commission) hereby issues this site permit to Fenton Power Partners I, LLC (Permittee) pursuant to Minnesota Statutes Chapter 216F and Minnesota Rules Chapter 7854. This permit authorizes the Permittee to construct and operate the Fenton Wind Repowering Project (Project), a 221 megawatt (MW) nameplate capacity Large Wind Energy Conversion System (LWECS) and associated facilities in Murray and Nobles Counties, Minnesota. The LWECS and associated facilities shall be built within the site identified in this permit and as identified in the attached official site permit map(s), hereby incorporated into this document.

### **1.1 Preemption**

Pursuant to Minn. Stat. § 216F.07, this permit shall be the sole site approval required for the location, construction, and operation of this project and this permit shall supersede and preempt all zoning, building, and land use rules, regulations, and ordinances adopted by regional, county, local, and special purpose governments.

## **2 PROJECT DESCRIPTION**

The retrofitted Project's total nameplate capacity is 221 megawatts (MW). The proposed Project will retrofit 136 of 137 GE 1.5 sle turbines. With the GE retrofit package the turbines will be upgraded to 1.62 MW generators. These longer blades will increase the rotor diameter from 77 meters (252.6-feet) to 91 meters (298.5 feet) in diameter, and include upgraded gear boxes, and associated components. The previously permitted locations of turbines, access roads, collection lines, and other supporting infrastructure will remain the same, and the Retrofit will not result in a change to the facility boundaries. The proposed turbine array is illustrated on the attached project map.

The proposed repowering will increase the project nameplate capacity by eight percent due to increased efficiencies; however, the Permittee will closely monitor the Project's energy output and cap delivery to maintain compliance with the new Generator Interconnection Agreement (GIA) with Midcontinent Independent System Operator, Inc. (MISO).

### **2.1 Associated Facilities**

Associated facilities include underground collection and feeder lines, crane walk paths, access roads, permanent meteorological towers, up to five temporary meteorological towers,

temporary staging/laydown construction area, nacelle assembly area, the O&M facility, and other associated facilities.

## 2.2 Project Location

The project is located in the following:

County	Township Name	Township	Range	Section
Murray	Moulton	105N	43W	10-19, 20-29, 33-34
Murray	Fenton	105N	42W	7, 17-22, 27-33
Nobles	Wilmont	104N	42W	4-8, 17-18

## 3 DESIGNATED SITE

The site designated by the Commission for the Fenton Wind Repowering Project is the site depicted on the official site permit maps attached to this permit. The estimated size of the Project Area is 38,500 acres (approximately 60.0 square miles) primarily on agricultural land.

### 3.1 Turbine Layout

The preliminary wind turbine and associated facility layouts are shown on the official site maps attached to this permit. The preliminary layout represents the approximate location of wind turbines and associated facilities within the project boundary and identifies a layout that seeks to minimize the overall potential human and environmental impacts of the project, which were evaluated in the permitting process.

The final layout depicting the location of each wind turbine and associated facility shall be located within the project boundary. The project boundary serves to provide the Permittee with the flexibility to make minor adjustments to the preliminary layout to accommodate requests by landowners, local government units, federal and state agency requirements, and unforeseen conditions encountered during the detailed engineering and design process. Any modification to the location of a wind turbine and associated facility depicted in the preliminary layout shall be done in such a manner to have comparable overall human and environmental impacts and shall be specifically identified in the site plan pursuant to Section 10.3.

## **4 SETBACKS AND SITE LAYOUT RESTRICTIONS**

### **4.1 Wind Access Buffer**

Wind turbine towers shall not be placed less than five rotor diameters on the prevailing wind directions and three rotor diameters on the non-prevailing wind directions from the perimeter of the property where the Permittee does not hold the wind rights, without the approval of the Commission. This section does not apply to public roads and trails.

### **4.2 Residences**

Wind turbine towers shall not be located closer than 500 feet from all residences or the distance required to comply with the noise standards pursuant to Minn. R. 7030.0040, established by the Minnesota Pollution Control Agency, whichever is greater.

### **4.3 Noise**

The wind turbine towers shall be placed such that the Permittee shall, at all times, comply with noise standards established by the Minnesota Pollution Control Agency as of the date of this permit and at all appropriate locations. The noise standards are found in Minnesota Rules Chapter 7030. Turbine operation shall be modified, or turbines shall be removed from service if necessary to comply with these noise standards. The Permittee or its contractor may install and operate turbines as close as the minimum setback required in this permit, but in all cases shall comply with Minnesota Pollution Control Agency noise standards. The Permittee shall be required to comply with this condition with respect to all homes or other receptors in place as of the time of construction, but not with respect to such receptors built after construction of the towers.

### **4.4 Roads**

Wind turbines and meteorological towers shall not be located closer than 250 feet from the edge of the nearest public road right-of-way.

### **4.5 Public Lands**

Wind turbines and associated facilities including foundations, access roads, underground cable, and transformers, shall not be located in publicly-owned lands that have been designated for recreational or conservation purposes, including, but not limited to, Waterfowl Production

Areas, State Wildlife Management Areas, Scientific and Natural Areas or county parks, except in the event that the public entity owning those lands enters into a land lease and easement with the Permittee. Wind turbines towers shall also comply with the setbacks of Section 4.1.

#### **4.6 Wetlands**

Wind turbines and associated facilities including foundations, access roads, underground cable and transformers, shall not be placed in public waters wetlands, as shown on the public water inventory maps prescribed by Minnesota Statutes Chapter 103G, except that electric collector or feeder lines may cross or be placed in public waters or public waters wetlands subject to permits and approvals by the Minnesota Department of Natural Resources and the United States Army Corps of Engineers, and local units of government as implementers of the Minnesota Wetlands Conservation Act.

#### **4.7 Native Prairie**

Wind turbines and associated facilities including foundations, access roads, collector and feeder lines, underground cable, and transformers shall not be placed in native prairie, as defined in Minn. Stat. § 84.02, subd. 5, unless addressed in a prairie protection and management plan and shall not be located in areas enrolled in the Native Prairie Bank Program. Construction activities, as defined in Minn. Stat. § 216E.01, shall not impact native prairie unless addressed in a prairie protection and management plan.

The Permittee shall prepare a prairie protection and management plan in consultation with the Minnesota Department of Natural Resources if native prairie, as defined in Minn. Stat. § 84.02, subd. 5, is identified within the site boundaries. The Permittee shall file the plan 30 days prior to submitting the site plan required by Section 10.3 of this permit. The plan shall address steps that will be taken to avoid impacts to native prairie and mitigation to unavoidable impacts to native prairie by restoration or management of other native prairie areas that are in degraded condition, by conveyance of conservation easements, or by other means agreed to by the Permittee, the Minnesota Department of Natural Resources, and the Commission.

#### **4.8 Sand and Gravel Operations**

Wind turbines and all associated facilities, including foundations, access roads, underground cable, and transformers shall not be located within active sand and gravel operations, unless otherwise negotiated with the landowner.



#### **4.9 Wind Turbine Towers**

Structures for wind turbines shall be self-supporting tubular towers. The towers may be up to 80 meters (263 feet) above grade measured at hub height.

#### **4.10 Turbine Spacing**

The turbine towers shall be constructed within the site boundary as shown in the official site maps. The turbine towers shall be spaced no closer than three rotor diameters in the non-prevailing wind directions and five rotor diameters on the prevailing wind directions. If required during final micro-siting of the turbine towers to account for topographic conditions, up to 20 percent of the towers may be sited closer than the above spacing but the Permittee shall minimize the need to site the turbine towers closer.

#### **4.11 Meteorological Towers**

Permanent towers for meteorological equipment shall be free standing. Permanent meteorological towers shall not be placed less than 250 feet from the edge of the nearest public road right-of-way and from the boundary of the Permittee's site control, or in compliance with the county ordinance regulating meteorological towers in the county the tower is built, whichever is more restrictive. Meteorological towers shall be placed on property the Permittee holds the wind or other development rights.

Meteorological towers shall be marked as required by the Federal Aviation Administration. There shall be no lights on the meteorological towers other than what is required by the Federal Aviation Administration. This restriction shall not apply to infrared heating devices used to protect the wind monitoring equipment.

#### **4.12 Aviation**

The Permittee shall not place wind turbines or associated facilities in a location that could create an obstruction to navigable airspace of public and private airports (as defined in Minn. R. 8800.0100, subp. 24(a) and 24(b)) in Minnesota, adjacent states, or provinces. The Permittee shall apply the minimum obstruction clearance for private airports pursuant to Minn. R. 8800.1900, subp. 5. Setbacks or other limitations shall be followed in accordance with the Minnesota Department of Transportation, Department of Aviation, and the Federal Aviation Administration. The Permittee shall notify owners of all known airports within six miles of the project prior to construction.

#### **4.13 Footprint Minimization**

The Permittee shall design and construct the LWECS so as to minimize the amount of land that is impacted by the LWECS. Associated facilities in the vicinity of turbines such as electrical/electronic boxes, transformers, and monitoring systems shall, to the greatest extent feasible, be mounted on the foundations used for turbine towers or inside the towers unless otherwise negotiated with the affected landowner.

### **5 GENERAL CONDITIONS**

The Permittee shall comply with the following conditions during construction and operation of the LWECS and associated facilities over the life of this permit.

#### **5.1 Notification**

Within 30 days of permit issuance, the Permittee shall send a copy of the permit and the complaint procedures to any regional development commission, county auditor and environmental office, and city and township clerk in which any part of the site is located. Within 30 days of permit issuance, the Permittee shall provide all affected landowners with a copy of this permit and the complaint procedures<sup>1</sup>. In no case shall the landowner receive this site permit and complaint procedures less than five days prior to the start of construction on their property. The Permittee shall contact landowners prior to entering the property or conducting maintenance within the site, unless otherwise negotiated with the affected landowner.

#### **5.2 Construction and Operation Practices**

The Permittee shall comply with the construction practices, operation and maintenance practices, and material specifications described in the Site Permit Amendment Application, dated October 1, 2018, and the record of the proceedings unless this permit establishes a different requirement in which case this permit shall prevail.

##### **5.2.1 Field Representative**

The Permittee shall designate a field representative responsible for overseeing compliance with the conditions of this permit during construction of the project. This person shall be accessible

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<sup>1</sup> Affected landowner for this provision means property landowner and adjacent landowner.

by telephone or other means during normal business hours throughout site preparation, construction, cleanup, and restoration.

The Permittee shall file with the Commission the name, address, email, phone number, and emergency phone number of the field representative 14 days prior to commencing construction. The Permittee shall provide the field representative's contact information to affected landowners, residents, local government units and other interested persons 14 days prior to commencing construction. The Permittee may change the field representative at any time upon notice to the Commission, affected landowners, residents, local government units and other interested persons.

### **5.2.2 Site Manager**

The Permittee shall designate a site manager responsible for overseeing compliance with the conditions of this permit during the commercial operation and decommissioning phases of the project. This person shall be accessible by telephone or other means during normal business hours for the life of this permit.

The Permittee shall file with the Commission the name, address, email, phone number, and emergency phone number of the site manager 14 days prior to commercial operation of the facility. The Permittee shall provide the site manager's contact information to affected landowners, residents, local government units and other interested persons 14 days prior to commercial operation of the facility. The Permittee may change the site manager at any time upon notice to the Commission, affected landowners, residents, local government units and other interested persons.

### **5.2.3 Employee Training and Education of Permit Terms and Conditions**

The Permittee shall inform all employees, contractors, and other persons involved in the construction and ongoing operation of the LWECs of the terms and conditions of this permit.

### **5.2.4 Topsoil Protection**

The Permittee shall implement measures to protect and segregate topsoil from subsoil on all lands unless otherwise negotiated with the affected landowner.

### **5.2.5 Soil Compaction**

The Permittee shall implement measures to minimize soil compaction of all lands during all phases of the project's life and shall confine compaction to as small an area as practicable.

### **5.2.6 Soil Erosion and Sediment Control**

The Permittee shall implement those erosion prevention and sediment control practices recommended by the Minnesota Pollution Control Agency Construction Stormwater Program.

If construction of the facility disturbs more than one acre of land, or is sited in an area designated by the Minnesota Pollution Control Agency as having potential for impacts to water resources, the Permittee shall obtain a National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) Construction Stormwater Permit from the Minnesota Pollution Control Agency that provides for the development of a Stormwater Pollution Prevention Plan (SWPPP) that describes methods to control erosion and runoff.

The Permittee shall implement reasonable measures to minimize erosion and sedimentation during construction and shall employ perimeter sediment controls, protect exposed soil by promptly planting, seeding, using erosion control blankets and turf reinforcement mats, stabilizing slopes, protecting storm drain inlets, protecting soil stockpiles, and controlling vehicle tracking. Contours shall be graded as required so that all surfaces provide for proper drainage, blend with the natural terrain, and are left in a condition that will facilitate re-vegetation and prevent erosion. All areas disturbed during construction of the facilities shall be returned to pre-construction conditions.

### **5.2.7 Wetlands**

Construction in wetland areas shall occur during frozen ground conditions to minimize impacts, to the extent feasible. When construction during winter is not possible, wooden or composite mats shall be used to protect wetland vegetation. Soil excavated from the wetlands and riparian areas shall be contained and managed in accordance with all applicable wetland permits. Wetlands and riparian areas shall be accessed using the shortest route possible in order to minimize travel through wetland areas and prevent unnecessary impacts.

Wetland and water resource areas disturbed by construction activities shall be restored to pre-construction conditions, in accordance with all applicable wetland permits. Restoration of the wetlands will be performed by the Permittee in accordance with the requirements of applicable state and federal permits or laws and landowner agreements.

### **5.2.8 Vegetation Management**

The Permittee shall disturb or clear the project site only to the extent necessary to assure suitable access for construction, safe operation and maintenance of the project. The Permittee shall minimize the number of trees to be removed in selecting the site layout specifically preserving to the maximum extent practicable windbreaks, shelterbelts, living snow fences, and vegetation, to the extent that such actions do not violate sound engineering principles.

### **5.2.9 Application of Pesticides**

The Permittee shall restrict pesticide use to those pesticides and methods of application approved by the Minnesota Department of Agriculture, Minnesota Department of Natural Resources, and the U.S. Environmental Protection Agency. Selective foliage or basal application shall be used when practicable. All pesticides shall be applied in a safe and cautious manner so as not to damage adjacent properties including crops, orchards, tree farms, apiaries, or gardens. The Permittee shall contact the landowner or designee to obtain approval for the use of pesticide at least 14 days prior to any application on their property. The landowner may request that there be no application of pesticides on any part of the site within the landowner's property. The Permittee shall provide notice of pesticide application to affected landowners and known beekeepers operating apiaries within three miles of the project site at least 14 days prior to such application.

### **5.2.10 Invasive Species**

The Permittee shall employ best management practices to avoid the potential spread of invasive species on lands disturbed by project construction activities. The Permittee shall develop an Invasive Species Prevention Plan to prevent the introduction and spread of invasive species on lands disturbed by project construction activities and file with the Commission 14 days prior to the pre-construction meeting.

### **5.2.11 Noxious Weeds**

The Permittee shall take all reasonable precautions against the spread of noxious weeds during all phases of construction. When utilizing seed to establish temporary and permanent vegetative cover on exposed soil, the Permittee shall select site appropriate seed certified to be free of noxious weeds. The Permittee shall consult with landowners on the selection and use of seed for replanting. To the extent possible, the Permittee shall use native seed mixes.

### **5.2.12 Public Roads**

At least 14 days prior to the pre-construction meeting, the Permittee shall identify all state, county, or township roads that will be used for the project and shall notify the Commission and the state, county, or township governing body having jurisdiction over the roads to determine if the governmental body needs to inspect the roads prior to use of these roads. Where practical, existing roadways shall be used for all activities associated with the project. Where practical, all-weather roads shall be used to deliver cement, turbines, towers, assembled nacelles, and all other heavy components to and from the turbine sites.

The Permittee shall prior to the use of such roads, make satisfactory arrangements with the appropriate state, county, or township governmental body having jurisdiction over roads to be used for construction of the project, for maintenance and repair of roads that may be subject to increased impacts due to transportation of equipment and project components. The Permittee shall notify the Commission of such arrangements upon request.

### **5.2.13 Turbine Access Roads**

The Permittee shall construct the least number of turbine access roads necessary to safely and efficiently operate the project and satisfy landowner requests. Access roads shall be low profile roads so that farming equipment can cross them and shall be covered with Class 5 gravel or similar material. Access roads shall not be constructed across streams and drainage ditches without required permits and approvals. When access roads are constructed across streams, drainage ways, or drainage ditches, the access roads shall be designed and constructed in a manner so runoff from the upper portions of the watershed can readily flow to the lower portion of the watershed. Any access roads that are constructed across streams or drainage ditches shall be designed and constructed in a manner that maintains existing fish passage. Access roads that are constructed across grassed waterways, which provide drainage for surface waters that are ephemeral in nature, are not required to maintain or provide fish passage. Access roads shall be constructed in accordance with all necessary township, county or state road requirements and permits.

### **5.2.14 Private Roads**

The Permittee shall promptly repair private roads or lanes damaged when moving equipment or when obtaining access to the site, unless otherwise negotiated with the affected landowner.

### **5.2.15 Archaeological and Historic Resources**

The Permittee shall make every effort to avoid impacts to identified archaeological and historic resources when constructing the LWECS. In the event that a resource is encountered, the Permittee shall contact and consult with the State Historic Preservation Office and the State Archaeologist. Where feasible, avoidance of the resource is required. Where not feasible, mitigation must include an effort to minimize project impacts on the resource consistent with State Historic Preservation Office and State Archaeologist requirements.

Prior to construction, workers shall be trained about the need to avoid cultural properties, how to identify cultural properties, and procedures to follow if undocumented cultural properties, including gravesites, are found during construction. If human remains are encountered during construction, the Permittee shall immediately halt construction at such location and promptly notify local law enforcement and the State Archaeologist. Construction at such location shall not proceed until authorized by local law enforcement and the State Archaeologist.

### **5.2.16 Interference**

The Permittee has completed, an assessment of television and radio signal reception, microwave signal patterns, and telecommunications in the project area. The assessment was be designed to provide data that can be used in the future to determine whether the turbines and associated facilities are the cause of disruption or interference of television or radio reception, microwave patterns, or telecommunications in the event residents should complain about such disruption or interference after the turbines are placed in operation. The Permittee shall be responsible for alleviating any disruption or interference of these services caused by the turbines or any associated facilities.

The Permittee shall not operate the project so as to cause microwave, television, radio, telecommunications, or navigation interference in violation of Federal Communications Commission regulations or other law. In the event the project or its operations cause such interference, the Permittee shall take timely measures necessary to correct the problem.

Interference with the Minnesota Valley TV Improvement beam path and Fenton Turbine 47 is not authorized by this permit. To the extent issues arise with this beam path, any impact caused by the retrofit and extended blade length shall be mitigated by Fenton or as otherwise decided by the Commission.

### **5.2.17 Livestock Protection**

The Permittee shall take precautions to protect livestock during all phases of the project's life.

### **5.2.18 Fences**

The Permittee shall promptly replace or repair all fences and gates removed or damaged during all phases of the project's life unless otherwise negotiated with the affected landowner. When the Permittee installs a gate where electric fences are present, the Permittee shall provide for continuity in the electric fence circuit.

### **5.2.19 Drainage Tiles**

The Permittee shall take into account, avoid, promptly repair or replace all drainage tiles broken or damaged during all phases of project's life unless otherwise negotiated with affected landowner.

### **5.2.20 Equipment Storage**

The Permittee shall not locate temporary equipment staging areas on lands under its control unless negotiated with affected landowner. Temporary equipment staging areas shall not be located in wetlands or native prairie as defined in Sections 4.6 and 4.7.

### **5.2.21 Restoration**

The Permittee shall, as soon as practical following construction of each turbine, restore the areas affected by construction to the condition that existed immediately before construction began, to the extent possible. The time period to complete restoration may be no longer than 12 months after completion of the construction, unless otherwise negotiated with the affected landowner. Restoration shall be compatible with the safe operation, maintenance and inspection of the project. Within 60 days after completion of all restoration activities, the Permittee shall advise the Commission in writing of the completion of such activities.

### **5.2.22 Cleanup**

All waste and scrap that is the product of construction shall be removed from the site and all premises on which construction activities were conducted and properly disposed of upon



completion of each task. Personal litter, including bottles, cans, and paper from construction activities shall be removed on a daily basis.

#### **5.2.23 Pollution and Hazardous Waste**

All appropriate precautions to protect against pollution of the environment shall be taken by the Permittee. The Permittee shall be responsible for compliance with all laws applicable to the generation, storage, transportation, clean up and disposal of all wastes generated during construction and restoration of the site.

#### **5.2.24 Damages**

The Permittee shall fairly restore or compensate landowners for damage to crops, fences, private roads and lanes, landscaping, drain tile, or other damages sustained during construction.

#### **5.2.25 Public Safety**

The Permittee shall provide educational materials to landowners adjacent to the site and, upon request, to interested persons about the project and any restrictions or dangers associated with the project. The Permittee shall also provide any necessary safety measures such as warning signs and gates for traffic control or to restrict public access. The Permittee shall submit the location of all underground facilities, as defined in Minn. Stat. § 216D.01, subd. 11, to Gopher State One Call following the completion of construction at the site.

#### **5.2.26 Tower Identification**

All turbine towers shall be marked with a visible identification number.

#### **5.2.27 Federal Aviation Administration Lighting**

Towers shall be marked as required by the Federal Aviation Administration. There shall be no lights on the towers other than what is required by the Federal Aviation Administration. This restriction shall not apply to infrared heating devices used to protect the wind monitoring equipment.

### **5.3 Communication Cables**

The Permittee shall place all communication and supervisory control and data acquisition cables underground and within or adjacent to the land necessary for turbine access roads unless otherwise negotiated with the affected landowner.

### **5.4 Electrical Collector and Feeder Lines**

Collector lines that carry electrical power from each individual transformer associated with a wind turbine to an internal project interconnection point shall be buried underground. Collector lines shall be placed within or adjacent to the land necessary for turbine access roads unless otherwise negotiated with the affected landowner.

Feeder lines that carry power from an internal project interconnection point to the project substation or interconnection point on the electrical grid may be overhead or underground. Feeder line locations shall be negotiated with the affected landowner. Any overhead or underground feeder lines that parallel public roads shall be placed within the public rights-of-way or on private land immediately adjacent to public roads. If overhead feeder lines are located within public rights-of-way, the Permittee shall obtain approval from the governmental unit responsible for the affected right-of-way.

Collector and feeder line locations shall be located in such a manner as to minimize interference with agricultural operations including, but not limited to, existing drainage patterns, drain tile, future tiling plans, and ditches. Safety shields shall be placed on all guy wires associated with overhead feeder lines. The Permittee shall submit the engineering drawings of all collector and feeder lines in the site plan pursuant to Section 10.3, if there are any changes that are not already on file with the Commission.

### **5.5 Other Requirements**

#### **5.5.1 Safety Codes and Design Requirements**

The LWECs and associated facilities shall be designed to meet or exceed all relevant local and state codes, Institute of Electrical and Electronics Engineers, Inc. standards, the National Electric Safety Code, and North American Electric Reliability Corporation requirements. The Permittee shall report to the Commission on compliance with these standards upon request.

### **5.5.2 Other Permits and Regulations**

The Permittee shall comply with all applicable state rules and statutes. The Permittee shall obtain all required permits for the project and comply with the conditions of those permits unless those permits conflict with or are preempted by federal or state permits and regulations. A list of the permits known to be required is included in the permit application. At least 14 days prior to the preconstruction meeting, the Permittee shall submit a filing demonstrating that it has obtained such permits. The Permittee shall provide a copy of any such permit upon Commission request.

The Permittee shall comply with all terms and conditions of permits or licenses issued by the counties, cities, and municipalities affected by the project that do not conflict with or are not pre-empted by federal or state permits and regulations.

## **6 SPECIAL CONDITIONS**

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

### **6.1 Labor Statistics Reporting**

The Permittee shall file quarterly reports with the Commission within 45 days of the end of the quarter regarding construction workers that participated in the construction of the project. The Report shall (a) detail the Permittee's efforts and the site contractor's efforts to hire Minnesota workers, and (b) provide an account of 1) 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; 2) the gross number of hours worked by or full-time equivalent workers who are residents of other states, but maintain a permanent residence within 150 miles of the project; and 3) the total gross hours worked or total full-time equivalent workers. Permittee shall work with its contractor to determine the suitable reporting metric. The Report may not include personally identifiable data.

## **7 SURVEYS AND REPORTING**

### **7.1 Biological and Natural Resource Inventories**

The Permittee shall file with the Commission any biological surveys or studies conducted on this project, including those not required under this permit.

## **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 results of any modeling shall be filed with the Commission at least 14 days prior to the pre-construction meeting to confirm compliance with conditions of this permit.

## **7.3 Wake Loss Studies**

Within 14 days prior to the pre-construction meeting, the Permittee shall file with the Commission the estimate of project wake losses. As part of the annual report on project energy production required under Section 10.8 of the permit the Permittee shall file with the Commission any operational wake loss studies conducted on this project during the calendar year preceding the report.

## **7.4 Noise Studies**

The Permittee shall file a proposed methodology for the conduct of a post-construction noise study at least 14 days prior to the pre-construction meeting. The Permittee shall develop the post-construction noise study methodology in consultation with the Department of Commerce. The study must incorporate the Department of Commerce Noise Study Protocol to determine the operating LWECs noise levels at different frequencies and at various distances from the turbines at various wind directions and speeds. The Permittee must conduct the post-construction noise study and file with the Commission the completed post-construction noise study within 18 months of commencing commercial operation.

## **7.5 Avian and Bat Protection**

### **7.5.1 Avian and Bat Protection Plan**

The Permittee shall comply with the provisions of the Avian and Bat Protection Plan (ABPP) submitted for this project on January 9, 2019, and revisions resulting from the annual audit of ABPP implementation. The ABPP must address steps to be taken to identify and mitigate impacts to avian and bat species during the construction phase and the operation phase of the

project. The ABPP shall also include formal and incidental post-construction fatality monitoring, training, wildlife handling, documentation (e.g., photographs), and reporting protocols for each phase of the project.

The Permittee shall, by the 15th of March following each complete or partial calendar year of operation, file with the Commission an annual report detailing findings of its annual audit of ABPP practices. The annual report shall include summarized and raw data of bird and bat fatalities and injuries and shall include bird and bat fatality estimates for the project using agreed upon estimators from the prior calendar year. The annual report shall also identify any deficiencies or recommended changes in the operation of the project or in the ABPP to reduce avian and bat fatalities and shall provide a schedule for implementing the corrective or modified actions. The Permittee shall provide a copy of the report to the Minnesota Department of Natural Resources and to the U.S. Fish and Wildlife Service at the time of filing with the Commission.

#### **7.5.2 Quarterly Incident Reports**

The Permittee shall submit quarterly avian and bat reports to the Commission. Quarterly reports are due by the 15th of January, April, July, and October commencing the day following commercial operation and terminating upon the expiration of this permit. Each report shall identify any dead or injured avian and bat species, location of find by turbine number, and date of find for the reporting period in accordance with the reporting protocols. If a dead or injured avian or bat species is found, the report shall describe the potential cause of the occurrence (if known) and the steps taken to address future occurrences. The Permittee shall provide a copy of the report to the Minnesota Department of Natural Resources and to the U.S. Fish and Wildlife Service at the time of filing with the Commission.

#### **7.5.3 Immediate Incident Reports**

The Permittee shall notify the Commission, U.S. Fish and Wildlife Service, and the Minnesota Department of Natural Resources within 24 hours of the discovery of any of the following:

- (a) five or more dead or injured birds or bats within a five day reporting period;
- (b) one or more dead or injured state threatened, endangered, or species of special concern;
- (c) one or more dead or injured federally listed species, including species proposed for listing; or
- (d) one or more dead or injured bald or golden eagle(s).

In the event that one of the four discoveries listed above should be made, the Permittee must file with the Commission within seven days, a compliance report identifying the details of what was discovered, the turbine where the discovery was made, a detailed log of agencies and individuals contacted, and current plans being undertaken to address the issue.

#### **7.5.4 Turbine Operation Curtailment Requirements**

All operating turbines at the facility must be equipped and operated with software enabling adjustment of turbine cut-in speeds. The permittee shall operate all facility turbines so that all turbines are programmed to be locked or feathered at wind speeds up to the manufacturer's standard cut-in speed, from one-half hour before sunset to one-half hour after sunrise, from April 1 to October 31 of each year of operation through the life of the project.

### **8 AUTHORITY TO CONSTRUCT LWECs**

#### **8.1 Wind Rights**

At least 14 days prior to the pre-construction meeting, the Permittee shall demonstrate that it has obtained the wind rights and any other rights necessary to construct and operate the project within the boundaries authorized by this permit. Nothing in this permit shall be construed to preclude any other person from seeking a permit to construct a wind energy conversion system in any area within the boundaries of the project covered by this permit if the Permittee does not hold exclusive wind rights for such areas.

#### **8.2 Power Purchase Agreement**

In the event the Permittee does not have a power purchase agreement or some other enforceable mechanism for sale of the electricity to be generated by the project at the time this permit is issued, the Permittee shall provide notice to the Commission when it obtains a commitment for purchase of the power. This permit does not authorize construction of the project until the Permittee has obtained a power purchase agreement or some other enforceable mechanism for sale of the electricity to be generated by the project. In the event the Permittee does not obtain a power purchase agreement or some other enforceable mechanism for sale of the electricity to be generated by the project within two years of the issuance of this permit, the Permittee must advise the Commission of the reason for not having such commitment. In such event, the Commission may determine whether this permit should be amended or revoked. No amendment or revocation of this permit may be undertaken except in accordance with Minn. R. 7854.1300.

Within 60-days of the expiration of the project’s current power purchase agreement, Fenton shall file notice to the Commission of a new power purchase agreement or for some other enforceable mechanism for the sale of electricity generated by the project. If the Permittee does not obtain a power purchase agreement or have documentation regarding some other enforceable mechanism for sale of electricity, the Commission may determine whether this permit should be amended or revoked. No amendment or revocation of this permit may be undertaken except in accordance with Minn. R. 7854.1300.

### **8.3 Failure to Commence Construction**

If the Permittee has not completed the pre-construction surveys required under this permit and commenced construction of the project within two years of the issuance of this permit, the Permittee must advise the Commission of the reason construction has not commenced. In such event, the Commission shall make a determination as to whether this permit should be amended or revoked. No revocation of this permit may be undertaken except in accordance with applicable statutes and rules, including Minn. R. 7854.1300.

## **9 COMPLAINT PROCEDURES**

Prior to the start of construction, the Permittee shall submit to the Commission the procedures that will be used to receive and respond to complaints. The procedures shall be in accordance with the requirements of Minn. R. 7829.1500 or Minn. R. 7829.1700, and as set forth in the complaint procedures attached to this permit (Attachment A).

## **10 COMPLIANCE REQUIREMENTS**

Failure to timely and properly make compliance filings required by this permit is a failure to comply with the conditions of this permit. Compliance filings must be electronically filed with the Commission. Attachment B to this permit contains a summary of compliance filings, which is provided solely for the convenience of the Permittee. If this permit conflicts, or is not consistent with Attachment B, the conditions in this permit will control.

### **10.1 Pre-Construction Meeting**

Prior to the start of retrofit construction, the Permittee shall participate in a pre-construction meeting with the Department of Commerce and Commission staff to review pre-construction filing requirements, scheduling, and to coordinate monitoring of construction and site restoration activities. Within 14 days following the pre-construction meeting, the Permittee

shall file with the Commission, a summary of the topics reviewed and discussed and a list of attendees. The Permittee shall indicate in the filing the construction start date.

## **10.2 Site Plan**

At least 14 days prior to the pre-construction meeting, the Permittee shall provide the Commission, the Department and the Murray and Nobles Environmental Office with a site plan that includes specifications and drawings for site preparation and grading; specifications and locations of all turbines and other structures to be constructed including all electrical equipment, collector and feeder lines, pollution control equipment, fencing, roads, and other associated facilities; and procedures for cleanup and restoration, unless these documents are already on-file with these agencies. The documentation shall include maps depicting the site boundary and layout in relation to that approved by this permit. The Permittee shall document, through GIS mapping, compliance with the setbacks and site layout restrictions required by this permit, including compliance with the noise standards pursuant to Minnesota Rules Chapter 7030. At the same time, the Permittee shall notify affected landowners and city and town clerks that the site plan is on file with the Commission and the Murray and Nobles Environmental Office. The Permittee may submit a site plan and engineering drawings for only a portion of the project if the Permittee intends to commence construction on certain parts of the project before completing the site plan and engineering drawings for other parts of the project.

The Permittee may not commence construction until the 30 days has expired or until the Commission has advised the Permittee in writing that it has completed its review of the documents and determined that the planned construction is consistent with this permit. If the Permittee intends to make any significant changes to its site plan or the specifications and drawings after submission to the Commission, the Permittee shall notify the Commission, the Department, the Murray and Nobles Environmental Office, city and town clerks, and the affected landowners at least five days before implementing the changes. No changes shall be made that would be in violation of any of the terms of this permit.

In the event that previously unidentified human and environmental conditions are discovered during construction that by law or pursuant to conditions outlined in this permit would preclude the use of that site as a turbine site, the Permittee shall have the right to move or relocate turbine site. Under these circumstances, the Permittee shall notify the Commission, the Department, the Minnesota Pollution Control Agency, the Minnesota Department of Natural Resources, the Murray and Nobles Environmental Office, city and town clerks, and the affected landowners of any turbines that are to be relocated, and provide the previously unidentified environmental conditions and how the movement of the turbine mitigates the



human and environmental impact at least five days before implementing the changes. No changes shall be made that would be in violation of any terms of this permit.

### **10.3 Status Reports**

The Permittee shall file status reports with the Commission on progress regarding site construction. The Permittee need not report more frequently than monthly. Reports shall begin with the commencement of site construction and continue until completion of site restoration.

### **10.4 As-Builts**

Within 90 days after completion of construction, the Permittee shall submit copies of all final as-built plans and specifications developed during the project unless the documents are already on file with the appropriate agencies.

### **10.5 GPS Data**

Within 90 days after completion of construction, the Permittee shall submit to the Commission, in the format requested by the Commission, geo-spatial information (e.g., ArcGIS compatible map files, GPS coordinates, associated database of characteristics) for all structures associated with the solar energy generating system.

### **10.6 Project Energy Production**

The Permittee shall, by February 1st following each complete or partial year of project operation, file a report with the Commission on the monthly energy production of the project including:

- (a) the installed nameplate capacity of the permitted project;
- (b) the total monthly energy generated by the project in MW hours;
- (c) the monthly capacity factor of the project;
- (d) yearly energy production and capacity factor for the project;
- (e) the operational status of the project and any major outages, major repairs, or turbine performance improvements occurring in the previous year; and
- (f) any other information reasonably requested by the Commission.

This information shall be considered public and must be filed electronically.

### **10.7 Wind Resource Use**

The Permittee shall, by February 1st following each complete or partial calendar year of operation, file with the Commission the average monthly and average annual wind speed collected at one permanent meteorological tower during the preceding year or partial year of operation. This information shall be considered public and must be filed electronically.

### **10.8 Emergency Response**

The Permittee shall prepare an Emergency Response Plan in consultation with the emergency responders having jurisdiction over the facility prior to project construction. The Permittee shall submit a copy of the plan, along with any comments from emergency responders, to the Commission at least 14 days prior to the pre-construction meeting and a revised plan, if any. The Permittee shall provide as a compliance filing confirmation that the Emergency Response Plan was provided to the emergency responders and Public Safety Answering Points (PSAP) with jurisdiction over the facility prior to commencement of construction. The Permittee shall obtain and register the facility address or other location indicators acceptable to the emergency responders and PSAP having jurisdiction over the facility.

### **10.9 Extraordinary Events**

Within 24 hours of discovery of an occurrence, the Permittee shall notify the Commission of any extraordinary event. Extraordinary events include but shall not be limited to: fires, tower collapse, thrown blade, acts of sabotage, collector or feeder line failure, and injured worker or private person. The Permittee shall, within 30 days of the occurrence, file a report with the Commission describing the cause of the occurrence and the steps taken to avoid future occurrences.

## **11 DECOMMISSIONING, RESTORATION, AND ABANDONMENT**

### **11.1 Decommissioning Plan**

The Permittee shall submit a decommissioning plan to the Commission within 90 days of the site permit issuance 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 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.

### **11.2 Site Restoration**

Upon expiration of this permit, or upon earlier termination of operation of the project, or any turbine within the project, the Permittee shall have the obligation to dismantle and remove from the site all towers, turbine generators, transformers, overhead and underground cables and lines, foundations, buildings, and ancillary equipment to a depth of four feet. Any agreement for removal to a lesser depth or no removal shall be recorded with the county and shall show the locations of all such foundations. To the extent feasible, the Permittee shall restore and reclaim the site to its pre-project topography and topsoil quality. All access roads shall be removed unless written approval is given by the affected landowner requesting that one or more roads, or portions thereof, be retained. All such agreements between the Permittee and the affected landowner shall be submitted to the Commission prior to completion of restoration activities. The site shall be restored in accordance with the requirements of this condition within 18 months of termination.

### **11.3 Abandoned Turbines**

The Permittee shall advise the Commission of any turbines that are abandoned prior to termination of operation of the project. The project, or any turbine within the project, shall be considered abandoned after one year without energy production and the land restored pursuant to Section 11.2 unless a plan is developed and submitted to the Commission outlining the steps and schedule for returning the project, or any turbine within the project, to service.

## **12 COMMISSION AUTHORITY AFTER PERMIT ISSUANCE**

### **12.1 Final Boundaries**

After completion of construction, the Commission shall determine the need to adjust the final boundaries of the site required for this project in accordance with Minn. R. 7854.1300, subp. 1.

### **12.2 Expansion of Site Boundaries**

No expansion of the site boundaries described in this permit shall be authorized without the approval of the Commission. The Permittee may submit to the Commission a request for a change in the boundaries of the site for the project. The Commission will respond to the requested change in accordance with applicable statutes and rules.

### **12.3 Periodic Review**

The Commission shall initiate a review of this permit and the applicable conditions at least once every five years. The purpose of the periodic review is to allow the Commission, the Permittee, and other interested persons an opportunity to consider modifications in the conditions of this permit. No modification may be made except in accordance with applicable statutes and rules.

### **12.4 Modification of Conditions**

After notice and opportunity for hearing, this permit may be modified or amended for cause, including but not limited to the following:

- (a) violation of any condition in this permit;
- (b) endangerment of human health or the environment by operation of the project; or
- (c) existence of other grounds established by rule.

### **12.5 More Stringent Rules**

The Commission's issuance of this permit does not prevent the future adoption by the Commission of rules or orders more stringent than those now in existence and does not prevent the enforcement of these more stringent rules and orders against the Permittee.

### **12.6 Right of Entry**

Upon reasonable notice, presentation of credentials, and at all times in compliance with the Permittee's site safety standards, the Permittee shall allow representatives of the Commission to perform the following:

- (a) to enter upon the facilities easement of the site property for the purpose of obtaining information, examining records, and conducting surveys or investigations;

- (b) to bring such equipment upon the facilities easement of the property as is necessary to conduct such surveys and investigations;
- (c) to sample and monitor upon the facilities easement of the property; and
- (d) to examine and copy any documents pertaining to compliance with the conditions of this permit.

### **12.7 Proprietary Information**

Certain information required to be filed with the Commission under this permit may constitute trade secret information or other type of proprietary information under the Data Practices Act or other law. The Permittee must satisfy requirements of applicable law to obtain the protection afforded by the law.

## **13 PERMIT AMENDMENT**

This permit may be amended at any time by the Commission in accordance with Minn. R. 7854.1300, subp. 2. Any person may request an amendment of the conditions of this permit by submitting a request to the Commission in writing describing the amendment sought and the reasons for the amendment. The Commission will mail notice of receipt of the request to the Permittee. The Commission may amend the conditions after affording the Permittee and interested persons such process as is required.

## **14 TRANSFER OF PERMIT**

The Permittee may request at any time that the Commission transfer this permit to another person or entity. The Permittee shall provide the name and description of the person or entity to whom the permit is requested to be transferred, the reasons for the transfer, a description of the facilities affected, and the proposed effective date of the transfer. The person to whom the permit is to be transferred shall provide the Commission with such information as the Commission shall require to determine whether the new Permittee can comply with the conditions of the permit. The Commission may authorize transfer of the permit after affording the Permittee, the new Permittee, and interested persons such process as is required. The Commission may impose additional conditions on any new permittee as part of the approval of the transfer.

Within 90 days of the site permit issuance, the Permittee shall file a notice describing its ownership structure, identifying, as applicable:

- (a) the owner(s) of the financial and governance interests of the Permittee;
- (b) the owner(s) of the majority financial and governance interests of the Permittee's owners; and
- (c) the Permittee's ultimate parent entity (meaning the entity which is not controlled by any other entity).

The Permittee shall immediately notify the Commission of:

- (a) a change in owner(s) of the majority\* financial or governance interests in the Permittee;
- (b) a change in owner(s) of the majority\* financial or governance interests of the Permittee's owners; or
- (c) a sale which changes the parent entity of the Permittee.

*\*When there are only co-equal 50/50 percent interests, any change shall be considered a change in majority interest.*

The Permittee shall notify the Commission of:

- (a) the sale of a parent entity or a majority interest in the Permittee;
- (b) the sale of a majority interest of the Permittee's owners or majority interest of the owners; or
- (c) a sale which changes the entity with ultimate control over the Permittee.

## **15 REVOCATION OR SUSPENSION OF PERMIT**

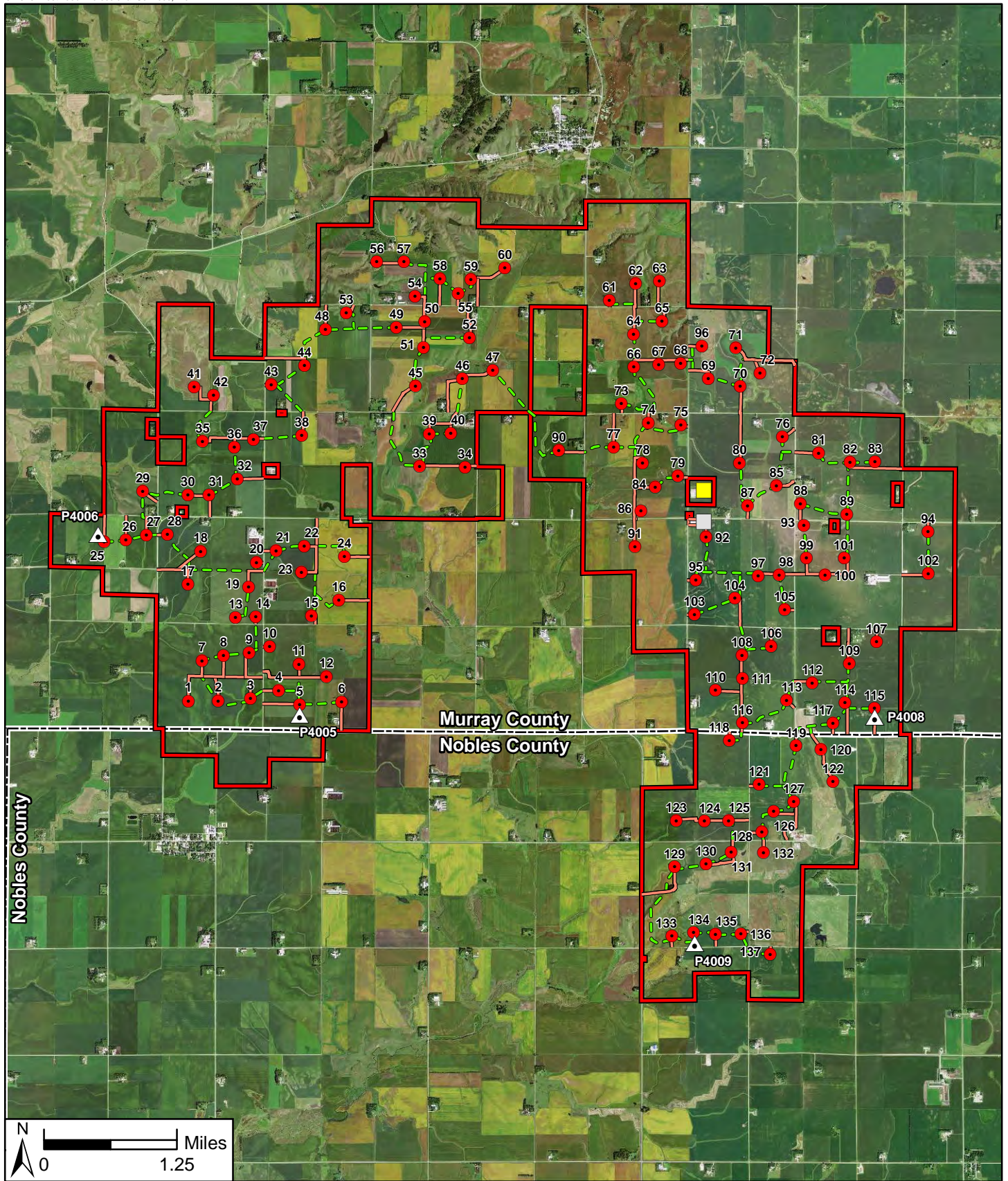
The Commission may take action to suspend or revoke this permit upon the grounds that:

- (a) a false statement was knowingly made in the application or in accompanying statements or studies required of the Permittee, and a true statement would have warranted a change in the Commission's findings;
- (b) there has been a failure to comply with material conditions of this permit, or there has been a failure to maintain health and safety standards;
- (c) there has been a material violation of a provision of an applicable statute, rule, or an order of the Commission; or
- (d) the Permittee has filed a petition with the Commission requesting that the permit be revoked or terminated.

In the event the Commission determines that it is appropriate to consider revocation or suspension of this permit, the Commission shall proceed in accordance with the requirements of Minn. R. 7854.1300 to determine the appropriate action. Upon a finding of any of the above, the Commission may require the Permittee to undertake corrective measures in lieu of having this permit suspended or revoked.

**16 EXPIRATION DATE**

This permit shall expire 30 years after the date this permit was approved and adopted.



Map Document: N:\0011824\00\GIS\Site Permits\FW\_PermitMap2\_TurbineLayoutExhibit\_180319.mxd 3/19/2018 5:42:50 PM radevito

Data Source(s): Westwood (2018); MNGeo WMS Imagery Summer 2015 (Accessed 2017).



### Legend

- GE 1.62 Turbine
- Existing Access Road
- - - Proposed Crane Path
- Project Boundary
- County Boundary
- Substation
- O&M Station
- ▲ Met Tower

**Westwood**  
 Toll Free (888) 937-5150 westwoodps.com  
 Westwood Professional Services, Inc.

# Fenton Wind Project

Murray & Nobles Counties, Minnesota

## GE 1.62 Turbine Layout



**ATTACHMENT 1**

Complaint Handling Procedures for Permitted Energy Facilities

**MINNESOTA PUBLIC UTILITIES COMMISSION  
COMPLAINT HANDLING PROCEDURES FOR  
PERMITTED ENERGY FACILITIES**

**A. Purpose**

To establish a uniform and timely method of reporting and resolving complaints received by the permittee concerning permit conditions for site preparation, construction, cleanup, restoration, operation, and maintenance.

**B. Scope**

This document describes complaint reporting procedures and frequency.

**C. Applicability**

The procedures shall be used for all complaints received by the permittee and all complaints received by the Minnesota Public Utilities Commission (Commission) under Minn. R. 7829.1500 or Minn. R. 7829.1700 relevant to this permit.

**D. 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 other route and associated facilities permit conditions. Complaints do not include requests, inquiries, questions or general comments.

**Substantial Complaint:** A written complaint alleging a violation of a specific permit condition that, if substantiated, could result in permit modification or suspension pursuant to the applicable regulations.

**Unresolved Complaint:** A complaint which, despite the good faith efforts of the permittee and a person, remains unresolved or unsatisfactorily resolved to one or both of the parties.

**Person:** An individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

## **E. Complaint Documentation and Processing**

1. The permittee shall designate an individual to summarize complaints for the Commission. This person's name, phone number and email address shall accompany all complaint submittals.
2. A person presenting the complaint should to the extent possible, include the following information in their communications:
  - a. name, address, phone number, and email address;
  - b. date of complaint;
  - c. tract or parcel number; and
  - d. whether the complaint relates to a permit matter or a compliance issue.
3. The permittee shall document all complaints by maintaining a record of all applicable information concerning the complaint, including the following:
  - a. docket number and project name;
  - b. name of complainant, address, phone number and email address;
  - c. precise description of property or parcel number;
  - d. name of permittee representative receiving complaint and date of receipt;
  - e. nature of complaint and the applicable permit condition(s);
  - f. activities undertaken to resolve the complaint; and
  - g. final disposition of the complaint.

## **F. Reporting Requirements**

The permittee shall commence complaint 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 1-800-657-3782 (voice messages are acceptable) or [consumer.puc@state.mn.us](mailto:consumer.puc@state.mn.us). For e-mail reporting, the email subject line should read "PUC EFP Complaint" and include the appropriate project docket number.

**Monthly Reports:** During project construction and restoration, a summary of all complaints, including substantial complaints received or resolved during the preceding month, shall be filed by the 15th of each month to Daniel P. Wolf, Executive Secretary, Public Utilities Commission, using the eDockets system. The eDockets system is located at:  
<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. Monthly reports shall be considered public information.

**G. Complaints Received by the Commission**

Complaints received directly by the Commission from aggrieved persons regarding site preparation, construction, cleanup, restoration, operation and maintenance shall be promptly sent to the permittee.

**H. Commission Process for Unresolved Complaints**

Commission staff shall perform an initial evaluation of unresolved complaints submitted to the Commission. Complaints raising substantial permit issues shall be processed and resolved by the Commission. Staff shall notify the permittee and appropriate persons if it determines that the complaint is a substantial complaint. With respect to such complaints, each party shall submit a written summary of its position to the Commission no later than ten days after receipt of the staff notification. The complaint will be presented to the Commission for a decision as soon as practicable.

**I. Permittee Contacts for Complaints and Complaint Reporting**

Complaints may be filed to the site permit contact on file or to the Commission's Consumer Affairs Office at 1-800-657-3782 (voice messages are acceptable) or [consumer.puc@state.mn.us](mailto:consumer.puc@state.mn.us). For e-mail reporting, the email subject line should read "PUC EFP Complaint" and include the appropriate project docket number. This information shall be maintained current by informing the Commission of any changes as they become effective.

**ATTACHMENT 2**

Compliance Filing Procedures for Permitted Energy Facilities

**MINNESOTA PUBLIC UTILITIES COMMISSION  
COMPLIANCE FILING PROCEDURE FOR  
PERMITTED ENERGY FACILITIES**

**A. Purpose**

To establish a uniform and timely method of submitting information required by Commission energy facility permits.

**B. Scope and Applicability**

This procedure encompasses all known compliance filings required by permit.

**C. Definitions**

**Compliance Filing:** A filing of information to the Commission, where the information is required by a Commission site or route permit.

**D. Responsibilities**

1. The permittee shall file all compliance filings with Daniel P. Wolf, Executive Secretary, Public Utilities Commission, through the eDockets system. The eDockets system is located at:  
<https://www.edockets.state.mn.us/EFiling/home.jsp>

General instructions are provided on the eDockets website. Permittees must register on the website to file documents.

2. All filings must have a cover sheet that includes:
  - a. Date
  - b. Name of submitter/permittee
  - c. Type of permit (site or route)
  - d. Project location
  - e. Project docket number
  - f. Permit section under which the filing is made
  - g. Short description of the filing

3. Filings that are graphic intensive (e.g., maps, engineered drawings) must, in addition to being electronically filed, be submitted as paper copies and on CD. Paper copies and CDs should be sent to: 1) Daniel P. Wolf, Executive Secretary, Minnesota Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul, MN 55101-2147, and 2) Department of Commerce, Energy Environmental Review and Analysis, 85 7th Place East, Suite 500, St. Paul, MN 55101-2198.

The Commission may request a paper copy of any electronically filed document.

**PERMIT COMPLIANCE FILINGS<sup>1</sup>**

PERMITTEE: FENTON POWER PARTNERS I, LLC  
 PERMIT TYPE: LARGE WIND ENERGY CONVERSION SYSTEM  
 PROJECT LOCATION: MURRAY AND NOBLES COUNTIES  
 PUC DOCKET NUMBER: PT6499/WS-05-1707

Filing Number	Permit Section	Description of Compliance Filing	Due Date
1	4.7	Prairie Protection and Management Plan	30 days prior to submitting site plan, as deemed necessary
2	4.12	Notification to airports	Prior to project construction
3	5.1	Notification of permit and complaint procedures	Within 30 days of permit issuance
4	5.2.1	Field Representative	14 days prior to commencing construction
5	5.2.2	Site Manager	14 days prior to commercial operation
6	5.2.6	Construction or Stormwater Permits	In accordance with the Minnesota Pollution Control Agency
7	5.2.9	Notification of Pesticide Application	14 days prior to application
8	5.2.10	Invasive Species Protection Plan	14 days prior to pre-construction meeting
9	5.2.12	Identification of Roads	14 days prior to pre-construction meeting

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<sup>1</sup> This compilation of permit compliance filings is provided for the convenience of the permittee and the Commission. It is not a substitute for the permit; the language of the permit controls.



Filing Number	Permit Section	Description of Compliance Filing	Due Date
10	5.2.21	Site Restoration	60 days after completion of restoration
11	5.2.25	Public Safety/Education Materials	Upon Request
12	5.5.2	Filings Regarding Other Required Permits	14 days prior to pre-construction meeting
13	6.0	Special Conditions: Labor Statistics Reporting	60-days following completion of construction
14	7.1	Biological and Natural Resource Inventories	Upon completion
15	7.2	Shadow Flicker Data	14 days prior to pre-construction meeting
16	7.3	Wake Loss Studies	14 days prior to pre-construction meeting and with annual report
17	7.4	Post-Construction Noise Methodology	14 days prior to pre-construction meeting
18	7.4	Post-Construction Noise Study	Within 18 months of commercial operation
19	7.5.1	Annual Report – Avian and Bat Plan	15 <sup>th</sup> of March each year or partial year
20	7.5.2	Quarterly Incident Reports	15 <sup>th</sup> of January, April, July and October
21	7.5.3	Immediate Incident Reports	Within 24 hours of discovery and a report within 7 days

Filing Number	Permit Section	Description of Compliance Filing	Due Date
22	8.1	Demonstration of Wind Rights	14 days prior to pre-construction meeting
23	8.2	Power Purchase Agreement Notification	Within 60-days of the expiration of the PPA
26	10.0	Complaint Procedures	Prior to start of construction
27	10.1	Pre-Construction Meeting Summary	Within 14 days following the meeting
28	10.3	Site Plan	14 days prior to pre-construction meeting
29	10.4	Status Reports	Monthly
30	10.6	As-Builts	Within 90 days of completion of construction
31	10.7	GPS Data	Within 90 days of completion of construction
32	10.8	Project Energy Production	February 1 <sup>st</sup> of each year
33	10.9	Wind Resource Use	February 1 <sup>st</sup> of each year
34	10.1	Emergency Response Plan	14 days prior to pre-construction meeting
35	10.11	Extraordinary Event	Within 24 hours of discovery

Filing Number	Permit Section	Description of Compliance Filing	Due Date
39	11.1	Decommissioning Plan	Within 90 days of site permit issuance
40	14	Ownership Structure	Within 90 days of Site Permit Issuance