

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

In the Matter of the Application of Nobles 2 Power Partners, LLC for a Certificate of Need for the up to 260 MW Nobles 2 Wind Project and Associated Facilities in Nobles County, Minnesota

ISSUE DATE: January 4, 2018

DOCKET NO. IP-6964/CN-16-289

ORDER ACCEPTING APPLICATION, DIRECTING USE OF INFORMAL REVIEW PROCESS, AND VARYING TIMEFRAMES

PROCEDURAL HISTORY

On May 25, 2016, the Commission issued an order exempting Nobles 2 Power Partners, LLC (Nobles 2 or the Applicant) from various data requirements for a certificate-of-need application for a large energy facility.

On October 13, 2017, Nobles 2 filed a certificate-of-need application (the Application) for an up to 260 megawatt (MW) wind project and associated facilities (the Project). Nobles 2 also filed an application for a large wind energy conversion system (LWECS) site permit for the Project.¹

On October 23, 2017, the Department of Commerce, Division of Energy Resources (the Department) filed comments recommending that the Commission find the Application complete and evaluate the Application using the informal review process.

On October 26, 2017, the Commission issued a notice requesting comment on whether the Application meets the information requirements in the rules, whether the Commission should accept the Application as complete, and the appropriate procedural treatment for review of the Application.

On November 27, 2017, Nobles 2 filed reply comments agreeing with the Department's recommendations.

¹ The Commission accepted the LWECS site permit application as complete in its Order Accepting Application, Establishing Procedural Framework, and Varying Rules, issued on this date in the LWECS site permit docket: *In the Matter of the Application of Nobles 2 Power Partners, LLC for a Site Permit for the up to 260 MW Nobles 2 Wind Project and Associated Facilities in Nobles County, Minnesota*, Docket No. IP-6964/WS-17-597.

On December 14, 2017, the Commission met to consider the matter.

FINDINGS AND CONCLUSIONS

I. The Project

Nobles 2 is requesting a certificate of need for an up to 260 MW wind farm in Nobles County. The Project's footprint covers approximately 42,550 acres in Bloom, Larkin, Leota, Lismore, Summit Lake, and Wilmot Townships.² In addition to wind turbines, the Project would include an electrical-collection system, access roads, permanent meteorological towers, substation and interconnection facilities, and other infrastructure typical of a wind project. Nobles 2 expects an in-service date of the end of 2019.

Nobles 2 has executed a power-purchase agreement (PPA) with Minnesota Power, whereby the utility would purchase up to 250 MW of capacity and energy from the Project. However, Nobles 2 has requested that the Commission determine the need for the Project on the basis of the general need for economical renewable energy in the region.³

II. Summary of Commission Action

In this order, the Commission finds the Application complete, triggering the next phase of review for the Application.

As part of that next phase, the Commission will take the following actions:

- Request that the assigned administrative law judge conduct the proceeding as set forth herein, including conducting a joint public hearing on the certificate of need and LWECS site permit;
- Establish additional procedural requirements;
- Vary Minn. R. 7849.0200, subp. 5, and Minn. R. 7849.1400, subp. 3, to extend the timelines contained in those rules;
- Delegate administrative authority to the Executive Secretary; and
- Designate a Public Advisor

III. Jurisdiction

Before constructing a large energy facility, one must obtain a certificate of need from the Commission.⁴ A large energy facility includes an electric power generating plant or combination of plants with a combined capacity of 50 MW or more.⁵ Because the Project exceeds 50 MW,

² The Application states that the Project would impact approximately 115 acres during construction, or less than 0.5% of the 30,356 acres under lease and easement.

³ See Application, at 3.

⁴ Minn. Stat. § 216B.243, subd. 2; *see also* Minn. R. 7849.0030.

⁵ Minn. Stat. § 216B.2421, subd. 2(1).

Nobles 2 must obtain a certificate of need. Minn. R. Ch. 7849 contains the application requirements and ultimate criteria for demonstrating need.

IV. Application Completeness

The Department reviewed the Application for completeness under Minn. R. 7849.0240-.0340, and recommended that the Commission find the Application complete.

The Commission has reviewed the Application and the parties' comments and agrees with the Department, and the Commission will accept the Application as complete.

V. Review Process

The Commission has the discretion to evaluate certificate-of-need applications using either contested-case proceedings or an informal notice and comment process under Minn. R. 7829.1200.

No person has identified any contested issue of material fact or recommended that the case be referred to the Office of Administrative Hearings for contested-case proceedings at this time. The Commission will therefore direct that the informal comment and reply process be used for developing the record.

The Commission concludes that holding a joint public hearing on the certificate of need and LWECS site permit is feasible, efficient, and in the public interest. Therefore, the Commission will direct that the public hearing for the certificate-of-need application be held jointly with the public hearing for the site-permit application in docket IP-6964/WS-17-597. The Commission requests that the administrative law judge summarize comments from the public hearing related to the question of the need for the Project.

To ensure proper development of the record, the Commission will delegate administrative authority to the Executive Secretary and will establish related notification and procedural requirements as described below.

VI. Rule Variances

Minn. R. 7849.0200, subp. 5, requires the Commission to decide on the completeness of a certificate-of-need application within 30 days of filing.

Minn. R. 7849.1400, subp. 3, requires the Department to hold a public meeting within 40 days after receipt of an application for a certificate of need.

Under Minn. R. 7829.3200, the Commission will vary any of its rules upon making the following findings:

1. Enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
2. Granting the variance would not adversely affect the public interest; and

3. Granting the variance would not conflict with standards imposed by law.

The Commission concludes that the requirements for variances to Minn. R. 7849.0200, subp. 5, and Minn. R. 7849.1400, subp. 3, are met, and makes the following findings:

1. Enforcement of the rules would impose an excessive burden upon the Commission, the Department, and the public, because the timeframes in the rules do not allow enough time to review the Application, solicit comments, schedule a Commission meeting or public meeting, and prepare a written order;
2. Varying the timeframes serves the public interest by allowing more time for public comment on, and Commission consideration of, the Application;
3. Granting the variances does not conflict with standards imposed by law.

Accordingly, the Commission will vary Minn. R. 7849.0200, subp. 5, and Minn. R. 7849.1400, subp. 3, to extend the timelines contained in those rules.

VII. Public Advisor

Charles Bruce is designated as the Public Advisor to facilitate citizen participation in the review process.⁶ His phone number is 651.201.2251 and his email is publicadvisor.puc@state.mn.us.

ORDER

1. The Commission accepts the Application as complete.
2. The Commission directs that the Application be reviewed using the informal review process under Minn. R. 7829.1200.
3. The administrative law judge assigned to this matter will set a prehearing conference in consultation with the Applicant, the Department, and Commission staff.
4. The public hearing for the certificate-of-need proceeding shall be held jointly with the public hearing for the site permit application in docket IP-6964/WS-17-597.
5. The Commission delegates administrative authority in this proceeding to the Executive Secretary.
6. Charles Bruce is designated as the Public Advisor to facilitate citizen participation in the review process. His phone number is 651.201.2251 and his email is publicadvisor.puc@state.mn.us.

⁶ At the Commission meeting, the Commission voted to designate Bret Eknes as Public Advisor. The Commission has since filled its dedicated Public Advisor staff position.

7. The Commission requests that the Department continue to study the issues and indicate during the hearing process its position on the reasonableness of granting a certificate of need.
8. The Applicant shall facilitate in every reasonable way the continued examination of the issues by the Department and Commission staff.
9. The Applicant shall place a copy of the Application (printed or compact disc) for review in at least one government center or public library near the Project location.
10. Commission staff will work with the administrative law judge and the Department to select a suitable location for the public hearings on the Application.
11. The Public Advisor shall e-file the public comments received once the Application is open for comment.
12. The Commission varies Minn. R. 7849.0200, subp. 5, and Minn. R. 7849.1400, subp. 3, to extend the timelines contained in those rules.
13. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Daniel P. Wolf
Executive Secretary



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