

In the Matter of the Application for an Amendment to the Site Permit to Repower the 200 MW Pleasant Valley Wind Project in Dodge and Mower Counties, Minnesota.

Docket No. IP6828/WS-09-1197

Tuma Revised Section 4.1 WIND ACCESS BUFFER

Wind turbine towers shall not be placed less than five (5) rotor diameters (RD) on the prevailing wind directions and three (3) RD on the non-prevailing wind directions from the perimeter of the property where the Permittee does not hold the wind rights, ~~excepted for~~ for those turbines listed in this section as having waivers from the Commission. This section does not apply to public roads and trails.

Subject to the offer of compensation process set forth below, the Commission ~~has waived~~ considers for possible waiver the wind access buffer setbacks for 22 turbines, including turbines 1, 3, 8-11, 24, 32, 53-55, 58, 64, 66, 70, 77, 80, 85 and 96-99.

Within 60 days of issuance of this permit, the permittee shall make an initial offer to each landowner affected by permittee's inability, in light of longer turbine blades used in the repower, to meet the wind access buffer requirements in Section 4.1.

The offer of compensation shall be in exchange for the landowner's agreement to waive any claim the landowner would have that the permittee is in violation of Section 4.1. The permittee shall notify affected landowners in writing that a) failure to reach agreement may result in the Commission waiving the setback requirement as to turbines affecting their property, and b) the result of this waiver is that the landowner would not be able to complain of a violation of the permit setback requirements.

The compensation initially offered shall not be less than the highest compensation offered to other affected landowners as of the date of the permit issuance, and terms shall not be less favorable than terms offered to other affected landowners as of the same date.

Permittee shall submit the names of three qualified real estate professionals from Mower and/or Dodge County willing to review permit compliance under this section and report to the Department of Commerce – Energy Environmental Review & Analysis (DOC EERA) on the extent to which the permittee has negotiated in good faith with landowners. DOC EERA shall select one real estate professional from the list provided. Permittee shall contract for the services described above with the professional, provide the professional with a full and complete history of negotiations with landowners, and compensate the professional based on a reasonable fee as ordered by the Commission through the Executive Secretary.

~~If no wind rights agreement is reached, the permittee acknowledges that this property will not be foreclosed from installing wind turbine generators on such property at a later date, even if such turbine generators cannot be installed on such property in compliance with the setbacks set forth in this section.~~

The permittee is required to continue negotiating in good faith and not withdraw its last offer before 60 days prior to the pre-construction meeting. Permittee shall provide at least two weeks' notice by certified mail to any affected landowners of any pending withdrawal of an offer of compensation.

Within 10 days after the final offers terminate, the permittee shall make a compliance filing identifying the turbine numbers it proposes be subject to the setback waiver. Permittee shall ensure that the real estate professional reviewing compliance with this section files the report described above within 30 days after the permittee's compliance filing on turbines subject to the setback waiver. The Executive Secretary is authorized to approve the identification of turbines subject to the setback waiver based on the report of the real estate professional and comments and recommendations from DOC EERA. If there is any dispute regarding whether the permittee complied with the last offer provisions herein the Executive Secretary shall bring the matter before the Commission as soon as practical.

If no wind rights agreement is reached and waiver is granted, the permittee acknowledges that any owner of the property will not be foreclosed from installing wind turbine generators on the property at a later date, even if turbine generators cannot be installed on the property in compliance with the setbacks set forth in this section.