

June 27, 2018

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: Comments of the Minnesota Department of Commerce, Division of Energy Resources
Docket No. IP6964 /CN-16-289

Dear Mr. Wolf:

Attached are the comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matter:

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.

The Petition was filed October 13, 2017 by:

Jeremy P. Duehr
Fredrikson & Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402

The Department recommends that the Minnesota Public Utilities Commission (Commission) consider the impacts demonstrated by the environmental report and, if the impacts are satisfactory, **approve the petition**. The Department is available to answer any questions the Commission may have.

Sincerely,

/s/ STEVE RAKOW
Analyst Coordinator

SR/lt
Attachment

Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. IP6964 /CN-16-289

I. INTRODUCTION

A. EXEMPTION

On April 5, 2016, Nobles 2 Power Partners, LLC (Nobles or the Company) filed the Company's *Request for Exemption From Certain Certificate of Need Application Content Requirements* (Exemption Petition). Specifically, Nobles requested that the Commission grant full or partial exemptions to Minnesota Rules:

1. 7849.0240, subp. 2 (B): Promotional Activities;
2. 7849.0250, subp. B (1) – (5): Description of Certain Alternatives;
3. 7849.0250 (C) (1) – (9): Details Regarding Alternatives;
4. 7849.0250 (C) (7): Effect of Project on Rates System-wide;
5. 7849.0250 (D): Map of Applicant's System;
6. 7849.0270: Peak Demand and Annual Consumption Forecast;
7. 7849.0280: System Capacity;
8. 7849.0290: Conservation Programs;
9. 7849.0300: Consequences of Delay;
10. 7849.0330: Transmission Facilities; and
11. 7849.0340: No-Facility Alternative.

On April 15, 2016, the Minnesota Department of Commerce (Department) filed comments regarding the Exemption Petition.

On May 25, 2016, the Minnesota Public Utilities Commission (Commission) issued an order (Exemption Order) approving the Exemption Petition with conditions.

B. CERTIFICATE OF NEED PETITION

On October 13, 2017, Nobles filed its *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* (Petition). Nobles is an independent power producer (IPP) that proposes to construct, own, and operate an up to 260-MW wind energy conversion system (Project). The project would be located within Nobles County in southwestern Minnesota. Nobles' parent, Tenaska Wind Holdings II, LLC is an affiliate of Tenaska, Inc. Nobles' parent is based in Omaha, Nebraska and is a private, independent energy company.

The Project will interconnect at an existing 115-kV transmission line that is located in the west-central portion of the site. In the Petition, Nobles indicates the Project will consist of a number of turbines ranging from 65 to 82, depending on the configuration selected. Nobles plans to construct the Project on a schedule that facilitates an in-service date as early as the fourth quarter of 2019. Nobles currently has a power purchase agreement (PPA) with Minnesota Power, a public utility operating division of ALLETE, Inc. (MP).

On October 13, 2017, the Department filed comments on the completeness of the Petition.

On November 20, 2017, Nobles filed reply comments regarding completeness.

On January 4, 2018, the Commission issued its *Order Accepting Application, Directing Use of Informal Review Process, and Varying Timeframes (Completeness Order)*.

On March 20, 2018, the Mankato Building and Construction Trades Council filed comments on the Petition.

On April 4, 2018, Nobles filed two letters demonstrating that Nobles completed the notice requirements.

On May 10, 2018, the Commission issued a *Notice of Comment Period (Notice)* which established comment and reply comment deadlines of July 2, 2018 and July 11, 2018, respectively, regarding the merits of the Petition. According to the Notice the topics open for comment include:

- Are there any contested issues of fact with respect to the representations made in the application?
- Should the Commission grant a certificate of need for the project?
- Are there other issues or concerns related to this matter?

In response to the Notice, below are the comments of the Department. Overall, as explained in detail below, the Department:

- does not have any contested issues of fact with respect to the representations made in the Petition;
- concludes that Commission should grant a certificate of need (CN) for the project;¹ and
- does not have any other issues or concerns.

¹ This assumes that, after consideration of the Environmental Report, the Commission determines that the proposed facility “will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health.”

II. DEPARTMENT ANALYSIS

Minnesota Statutes, section 216B.2421, subd. 2 (1) defines a large energy facility (LEF) as:

... any electric power generating plant or combination of plants at a single site with a combined capacity of 50,000 kilowatts or more and transmission lines directly associated with the plant that are necessary to interconnect the plant to the transmission system.

Since the proposed Project would have a design capacity of up to 260 MW (260,000 kilowatts), it qualifies as an LEF. Minnesota Statutes, section 216B.243, subd. 2 states that “no large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the Commission” Therefore, a CN application must be approved by the Commission before the proposed Project can be sited or constructed.

There are several factors to be considered by the Commission in making a determination in CN proceedings. In general, these factors are located in different sections of Minnesota Statutes. Some of the general statutory criteria are reflected in a more specific way in Minnesota Rules, part 7849.0120. However, some statutory criteria do not appear to be reflected in rules. To clarify the analysis, the Department groups all of the statutory and rule criteria into one of five factor categories.² The Department addresses each of the statutory and rule criteria below. A cross-index matching the statutory and rule criteria to the section where each is addressed along with a summary of Department’s analysis is provided as Attachment 1.

The Department notes that we rely on the Environmental Report (ER) for an analysis of the effects of the proposed Project and the alternatives upon the natural and socioeconomic environments. The Department recommends that the Commission consider the ER in making its determination.

A. NEED ANALYSIS

Overall, the need analysis is governed by Minnesota Rules, part 7849.0120 (A) which states that a CN must be granted upon determining that:

the probable result of denial would be an adverse effect upon the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant’s customers, or to the people of Minnesota and neighboring states.

² Need Analysis, Link to Planning Process, Alternatives Analysis, Socioeconomic Analysis, and Policy Analysis.

The rule lists five distinct criteria. The Department presents the analysis of the need for the proposed Project in two parts. The first part is designed to address the accuracy of the forecast underlying the claimed need. The second is designed to address any broader reliability needs. Each is addressed separately below.

1. *Forecast Analysis*

a. *Accuracy of the Forecast*

In the Exemption Order, the Commission granted Nobles an exemption to Minnesota Rules, part 7849.0270, which requires an applicant to provide information regarding its system peak demand and annual energy consumption. Instead, to fulfill this requirement, Nobles was required to provide information about regional demand, consumption and capacity. However, should Nobles enter into a power purchase agreement or similar arrangement with a Minnesota utility prior to submitting its CN application, the Company was required to provide relevant information regarding the purchasing utility's system and future resource needs and/or seek an exemption from the CN requirements under Minn. Stat. § 216B.243, subd. 9.

In the Petition, Nobles indicated that, "Nobles 2 will sell power generated by the Project to MP, or if necessary due to Commission disapproval of the Project's PPA with MP, at wholesale to one or more buyers affiliated with different systems and serving different areas." Nobles also stated that a review of utilities' Integrated Resource Plans (IRP), Request for Proposals (RFP), and other similar documents confirms the need for additional renewable generation in the upcoming years. Nobles cited recent IRPs for Xcel Energy (Xcel), MP, and Otter Tail Power Company (OTP) as an indication of need by Minnesota utilities to purchase more than 1,000 MW of renewable energy by 2020.³ Therefore Nobles believes that the up to 260 MW provided by the Project will help to meet the need for renewable energy.

The Department agrees with Nobles' assessment of the need for renewable energy in general and wind resources in particular. The Department notes that in Xcel's most recent IRP, the Commission found that:⁴

Despite slight variation in the exact timing and magnitude, the record clearly showed that acquisition of wind and possibly solar resources in the next five years represents the least-cost method of meeting Xcel's near-term resource needs. The Commission finds that the record shows that it is reasonable to acquire at least 1000 MW of wind by 2019. This acquisition is least-cost even though Xcel does not show a planning capacity deficit until the mid-2020s

³ Petition at page 33.

⁴ Docket No. E002/RP-15-21 IRP Order, at page 7.

because it will provide incrementally lower-cost energy, thereby reducing system costs. Upon submission of evidence such as price, bidder qualifications, rate impact, transmission availability and location, additional acquisitions may be approved.

In addition to the statement above regarding Xcel, the Commission's July 18, 2016 *Order Approving Resource Plan with Modifications* (IRP Order) in MP's most recent IRP stated:⁵

The Commission concurs with the parties that procuring additional wind generation in the near term, while it would not provide significant capacity, would benefit Minnesota Power's system by supplying low-cost energy at a fixed price.

...

The Commission concludes that Minnesota Power should begin a competitive acquisition process, by the end of 2017, to procure 100–300 MW of installed wind capacity. This range reflects the positions of both parties; the final amount can be resolved in a future resource-acquisition proceeding with the benefit of specific proposals.

MP's initial petition, filed July 28, 2017 in Docket No. E015/AI-17-568, identified "a Power Purchase Agreement ("PPA") for the 250 MW Nobles 2 Wind Project in southwestern Minnesota" as one of the projects in MP's *EnergyForward* Resource Package portfolio.⁶ The Commission's September 19, 2017 *Order Referring Gas Plant for Contested Case Proceedings, and Notice and Order for Hearings* required the Company to refile its wind and solar PPAs for Commission approval in a separate docket. At this time, the Commission has not approved MP's PPA with the proposed Project. Therefore, the Department does not limit the assessment of the forecasted need to the need identified in MP's most recent IRP.

The Department notes that the utilities subject to the Minnesota Renewable Energy Standard (RES) reported in the *2017 Biennial Transmission Projects Report* that there is sufficient capacity to meet the milestones through 2025. However, in the most recent IRPs of Xcel, OTP, Missouri River Energy Services and other utilities the parties have addressed the potential for wind additions.⁷ Typically, significant additions of wind resources are a least part of the resource plan in the near term irrespective of the existence of capacity deficits and/or a need to meet Minnesota's RES. Therefore, neither a lack of capacity needs in general nor RES need in particular influence the need for wind energy claimed by Nobles.

⁵ Docket No. E015/RP-15-690 Order, at pages 9-10.

⁶ Docket No. E015/AI-17-568 *Petition for Approval of the EnergyForward Resource Package and Compliance Filing*, at page 1-2.

⁷ See Docket Nos. E002/RP-15-21, E017/RP-16-386, and ET10/RP-16-509.

The Department notes that the generation capacity that the utilities claim has been acquired to meet the RES is not necessarily located within Minnesota. Further, some non-Minnesota utilities own or have power purchase agreements with wind generation projects located in Minnesota (see Dockets ET6657/CN-07-1425 and IP6829/CN-09-1046). In addition, the forecasted energy sales and associated capacity needs upon which the sufficiency claim was made in the *2017 Biennial Transmission Projects Report* were not independently verified.

In summary, considering the potential need for wind resources to meet renewable energy standards in Minnesota and the region, the significant need for wind resources based on recent IRPs, and the cost competitiveness of wind as indicated in Docket No. E002/M-16-777 and recent resource plans, the Department concludes that Nobles' forecast of the need for the renewable energy expected to be produced by the proposed Project is reasonable.

b. Overall State Energy Needs

Also related to the forecast analysis is Minnesota Rules, part 7849.0120 C (1) which states that the Commission is to consider "the relationship of the proposed facility, or a suitable modification thereof, to overall state energy needs." A review of the most recently approved IRPs shows that Minnesotans are still expected to demand more electricity over time and that most utilities are planning on adding wind generating capacity. The proposed Project could help Minnesota meet its energy needs while supporting the state's renewable energy and greenhouse gas emissions-reduction goals (see Minnesota Statutes, §§ 216B.1691 and 216H.02). Therefore, the Department concludes that the proposed Project fits the state's overall energy needs.

2. Reliability Analysis

Minnesota Statutes, section 216B.243, subd. 3 (5) states that, in assessing need, the Commission shall evaluate the "benefits of this facility, including its uses to . . . increase reliability of energy supply in Minnesota and the region." Nobles will need to apply to the Midcontinent Independent System Operator (MISO) in order to interconnect to the transmission grid. MISO engineers study the impact on the reliability of the electrical system of each addition to the grid and the Department relies upon MISO's analysis. Therefore, the Department concludes that this criterion has been met.

B. LINK TO PLANNING PROCESS

This section discusses the following aspects of this proposal: size, type and timing; renewable preference; and analysis of demand-side management (DSM) as an alternative to the proposed Project.

1. Size, Type, and Timing

Minnesota Rules, part 7849.0120 B (1) states that the Commission is to consider “the appropriateness of the size, the type, and the timing of the proposed facility compared to those of reasonable alternatives.”

a. Size

Regarding size, as noted above, in the IRP Order the Commission determined that MP had a need to purchase 100-300 MW of wind energy. The proposed Project’s size would fit MP’s needs for wind capacity and energy as determined by the Commission. Also, collectively, information submitted by the utilities subject to the Minnesota RES indicates that there is enough capacity in aggregate to meet need through 2025, but this does not consider that there may be individual utilities with insufficient capacity that will need additional renewable generation to meet the RES. In addition, utilities in neighboring states may have a need for renewable energy. If the proposed Project is granted a CN and is implemented, it will have to compete with the other wind energy projects in the wind energy market to fulfill any needs.

Furthermore, the Petition stated that the Project is sized to take advantage of economies of scale while also making efficient use of existing transmission capacity. Based on the discussion above regarding MP’s wind energy needs as determined by the Commission, the forecasted wind energy needs for the region, and the Applicant’s economic incentives, the Department concludes that the proposed Project’s size is not excessive and therefore is reasonable.

b. Type

The Commission’s Exemption Order granted Nobles an exemption to Minnesota Rules, part 7849.0250 (B) (1) – (3), and (5) and a partial exemption to data requirement (4), to the extent that the Rule requires discussion of non-renewable alternatives. Nobles stated that since the goal of the project is to provide renewable energy that will help utilities satisfy Minnesota’s RES, information regarding non-renewable alternatives would not be relevant. Further, the Commission’s IRP Order determined a need for wind resources on the part of MP. Given these factors, along with the preference for renewable resources in Minnesota Statutes, the Department concludes that the proposed Project’s type is reasonable.

c. Timing

Nobles stated that the Project is expected to be in-service as early as the fourth quarter of 2019. The timing of the proposed Project generally coincides with the anticipated need for wind additions of multiple utilities as discussed in the forecast section above. To summarize, recent IRPs for Xcel, MP, and OTP reflect a need by Minnesota utilities to purchase greater than 1,000 MW of wind energy by 2020. A late 2019 in-service date also meets the timing of MP’s

wind need implied by the IRP Order, which required MP to start a resource acquisition process by the end of 2017.

The project would also help a different utility meet Minnesota's RES, but it is important to note that there is unlikely to be a one-to-one relationship between CN applications and Minnesota RES obligations. More specifically, the Department notes that:

- there will not likely be a one-to-one match between CN applications based on the regional need for renewable generation and Minnesota utilities' RES compliance level;
- additional renewable resources will be needed for certain Minnesota utilities to meet their 2025 RES requirements due to capacity expirations;
- capacity additions are typically added in "chunks" due to the benefits of economies of scale;
- the renewable energy production tax credit will be gradually phased out starting soon. This may lead to earlier wind additions than might be the case otherwise; and
- there are uncertainties involved in accomplishing the associated transmission additions or upgrades needed for integrating the output of previously approved and variously located wind generation projects.

Finally, the Department notes that Minnesota Rules, part 7849.0400 requires the recipient of a CN to notify the Commission if the proposed in-service date is delayed by more than one year. In summary, the Department concludes that the timing of the proposed Project is reasonable.

2. Renewable Preference

There are two sections of Minnesota Statutes that provide a preference for renewable resources in resource planning and resource acquisition decisions. First, Minnesota Statutes, section 216B.243, subd. 3a states that:

The Commission may not issue a certificate of need under this section for a large energy facility that generates electric power by means of a nonrenewable energy source, or that transmits electric power generated by means of a nonrenewable energy source, unless the applicant for the certificate has demonstrated to the Commission's satisfaction that it has explored the possibility of generating power by means of renewable energy sources and has demonstrated that the alternative selected is less expensive (including environmental costs) than power generated by a renewable energy source. For purposes of this subdivision,

“renewable energy source” includes hydro, wind, solar, and geothermal energy and the use of trees or other vegetation as fuel.

Second, Minnesota Statutes, section 216B.2422, subd. 4 states that:

The Commission shall not approve a new or refurbished nonrenewable energy facility in an integrated resource plan or a certificate of need, pursuant to section 216B.243, nor shall the Commission allow rate recovery pursuant to section 216B.16 for such a nonrenewable energy facility, unless the utility has demonstrated that a renewable energy facility is not in the public interest.

Minnesota Statutes indicate a clear preference for renewable facilities; the proposed Project meets a renewable preference.

3. *DSM Analysis*

The Commission’s Exemption Order exempted the Petitioner from providing information on conservation programs, Minnesota Rules, part 7849.0290 and the potential for reducing the need for this generation project because Nobles does not have retail customers and does not operate any conservation programs. However, Nobles was required to provide relevant information regarding the purchasing utility’s conservation efforts—here MP. The IRP Order determined that MP had need for additional wind resources despite MP’s conservation efforts. Therefore, the Department concludes that DSM is not an alternative to the proposed Project.

C. *ANALYSIS OF ALTERNATIVES*

Overall, the analysis of alternatives is governed by Minnesota Rules, part 7849.0120 B which states that a CN must be granted upon determining that “. . . a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record.” The rule then proceeds to list four distinct criteria. The Department breaks down its analysis of the alternatives to the proposed facility into four broad areas:

- alternatives analysis;
- reliability analysis;
- distributed generation (DG); and
- preference for an innovative energy project (IEP) as defined in Minnesota Statutes.

Each area is addressed separately below.

1. *Alternatives Analysis*

a. *Non-CN Facilities Analysis*

Minnesota Rules, part 7849.0120 A (4) states that the Commission is to consider “the ability of current facilities and planned facilities not requiring certificates of need to meet the future demand.” The primary alternatives to the proposed facilities are purchases from renewable facilities outside Minnesota or construction of renewable Minnesota facilities that are small enough not to require certificates of need (less than 50 MW).

As an IPP, Nobles is a producer or seller, rather than purchaser, of electric generation. A renewable facility of less than 50 MW would not contribute as substantial an amount of renewable energy towards the Minnesota RES or towards a utility’s need for additional wind resources, and would not benefit as much from economies of scale as the proposed Project. In addition, the Petitioner has the incentive to site generation in an economically efficient manner inside or outside Minnesota. Further, the Department notes that any party wishing to do so may propose an alternative to the proposed facility; at this time, no party filed such a proposal in this proceeding. Therefore, the Department concludes that current and planned facilities not requiring a CN have not been demonstrated to be more reasonable than the proposed Project.

b. *Cost Analysis*

Minnesota Rules, part 7849.0120 B (2) states that the Commission is to consider “the cost of the proposed facility and the cost of energy to be supplied by the proposed facility compared to the costs of reasonable alternatives and the cost of energy that would be supplied by reasonable alternatives.” In the Exemption Order the Commission granted Nobles an exemption to Minnesota Rules, part 7849.0250 (C), which requires an applicant to provide a description of alternatives that could provide electric power at the asserted level of need. Only details regarding renewable alternatives need be provided, including an estimate of the proposed Project’s effect on wholesale rates in Minnesota or the region.

As noted earlier, MP filed a petition on July 28, 2017 requesting Commission approval for a PPA with the proposed Project as one of the projects in MP’s *EnergyForward* resource package. Review of MP’s cost analysis will take place when the PPA is re-filed by MP in a separate docket.

The Petition also included a discussion of alternatives to the proposed Project, including, but not limited to hydropower, biomass, solar, and emerging technologies. Nobles relied on cost information from the U.S. Department of Energy’s Energy Information Administration.⁸ Nobles

⁸ Petition at page 29, Table 5.2.2: Renewable Technology Costs.

concluded that wind energy resources are cost effective when compared with other renewable resources. The Department concludes that the data provided by Nobles is reasonable and demonstrates wind energy's cost advantages and disadvantages relative to other new, renewable sources.

Nobles stated that the proposed Project's energy production would be modest in comparison to the annual energy consumption of Minnesota and the region. However, because the proposed Project would not be subject to fluctuations in fuel costs, the Project could help stabilize or lower electricity prices in the state and region. For the most part, the Department concurs with Nobles' conclusion. The Department agrees that a wind facility the size of the proposed Project is not likely to have a significant effect on MISO wholesale prices. As far as wind resources in aggregate, wind facilities are the "first" resources dispatched under the protocols of MISO. Therefore, since pricing in the MISO market is based on the last (marginal) resource (typically natural gas or coal), electricity produced by wind facilities in aggregate can decrease the amount of natural gas, coal, or whatever resource is on the margin (the highest priced option) at a given time, that is used for generating electricity.

c. Natural and Socioeconomic Environments Analysis

Minnesota Rules, part 7849.0120 B (3) states that the Commission is to consider "the effects of the proposed facility upon the natural and socioeconomic environments compared to the effects of reasonable alternatives." The proposed facility will have relatively minor pollution impacts. In addition, the Petition states that approximately 115 acres of land would be permanently impacted by construction and installation of the proposed Project.

As an emission-free fuel, wind does not result in CO₂, NO_x, etc. Therefore, consideration of the effects on the natural and socioeconomic environments using the Commission-approved externality values would not impact the overall cost analysis against the proposed Project. Therefore, the Department concludes that this sub-criterion has been met; however and as noted above, the Environmental Report, being conducted concurrently in this proceeding and in the related siting proceeding, will include a full analysis of the effects of the proposed Project and the alternatives upon the natural and socioeconomic environments..

2. Reliability Analysis

Minnesota Rules, part 7849.0120 B (4) states that the Commission is to consider "the expected reliability of the proposed facility compared to the expected reliability of reasonable alternatives." Nobles estimated that the proposed Project will have an availability of about 95 percent, which it stated is consistent with industry standards.⁹ Nobles also estimated a net

⁹ Petition at page 30.

capacity factor of between approximately 42.5 percent and 47 percent.¹⁰ The Department concludes that the proposed capacity factor is reasonable considering the capacity factors estimated in other recent dockets involving wind resources.¹¹

The proposed Project will use several different wind turbines. If there is a problem with one turbine, the other turbines can remain available for producing power. This design will minimize the impact of problems experienced with any single turbine. Therefore, the Department concludes that this sub-criterion has been met.

3. *Distributed Generation Analysis*

Minnesota Statutes, section 216B.2426 states that:

The Commission shall ensure that opportunities for the installation of distributed generation, as that term is defined in section 216B.169, subdivision 1, paragraph (c), are considered in any proceeding under section 216B.2422, 216B.2425, or 216B.243.

Minnesota Statutes, section 216B.169 states:

For the purposes of this section, the following terms have the meanings given them

. . . (c) "High-efficiency, low-emission, distributed generation" means a distributed generation facility of no more than ten megawatts of interconnected capacity that is certified by the commissioner under subdivision 3 as a high efficiency, low-emission facility.

The Department notes, first, that no proposals for distributed generation as an alternative to the proposed Project have been filed in this proceeding. Second, the Department notes the costs to MP will be reviewed in a different proceeding. Third, if another buyer (other than MP) is an investor-owned utility (IOU), the Commission will have the opportunity to review the resulting PPA or facility purchase to ensure that the price and terms are reasonable. Other potential, non-IOU buyers of the proposed Project's output should have an incentive to use the lowest cost resource available. Non-IOU generation and transmission utilities are non-profit, compete for distribution utility clients, and therefore have an incentive to reduce costs. Therefore, the Department concludes that a potential buyer of the proposed Project's output has the incentive to consider all resources available, including distributed generation. The

¹⁰ Petition at page 22.

¹¹ For examples, see Docket Nos. E002/M-16-777 and E017/M-17-279.

Department concludes that the requirement to consider distributed generation has been met.

4. Innovative Energy Project (IEP) Preference

Minnesota Statutes, section 216B.1694, subd. 2 (a) (4) states that an IEP:

... shall, prior to the approval by the commission of any arrangement to build or expand a fossil-fuel-fired generation facility, or to enter into an agreement to purchase capacity or energy from such a facility for a term exceeding five years, be considered as a supply option for the generation facility, and the commission shall ensure such consideration and take any action with respect to such supply proposal that it deems to be in the best interest of ratepayers.

This statute does not apply since the proposed facility is not a fossil-fuel-fired generation facility.

D. SOCIOECONOMIC ANALYSIS

Overall, the socioeconomic analysis is governed by Minnesota Rules, part 7849.0120 C which states that a CN must be granted upon determining that:

... by a preponderance of the evidence on the record, the proposed facility, or a suitable modification of the facility, will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health.

Nobles stated that the proposed Project would provide a large amount of renewable energy with minimal environmental impact, which will help meet the RES and other needs for wind energy resources. Further, Nobles stated that the Project will benefit the local economies through landowner lease payments, production taxes, jobs (both temporary construction and permanent operations and maintenance jobs), and other local spending. Finally, Nobles noted that the proposed Project will be situated on agricultural land and that turbine placements will be chosen to minimize the proposed Project's effect on land use, noise, and shadow flicker.

As noted above, the Department relies on its ER for its socioeconomic analysis in a CN proceeding. The ER provides information related to:

- Minnesota Rules 7849.0120 A (5)—the effect of the proposed facility, or a suitable modification thereof, in making efficient use of resources;
- Minnesota Rules 7849.0120 C (2)—the effects of the proposed facility, or a suitable

- modification thereof, upon the natural and socioeconomic environments compared to the effects of not building the facility;
- Minnesota Rules 7849.0120 C (3)—the effects of the proposed facility, or a suitable modification thereof, in inducing future development; and
 - Minnesota Rules 7849.0120 C (4)—the socially beneficial uses of the output of the proposed facility, or a suitable modification thereof, including its uses to protect or enhance environmental quality.

The Department recommends that the Commission consider the ER filed by the Department's Energy Environmental Review and Analysis staff in the Commission's decision in this matter.

E. POLICY ANALYSIS

There are several remaining criteria in statutes and rules that are applicable to a CN but do not closely fit into the need, planning, alternatives, and socioeconomic categories discussed above. Therefore, these criteria are grouped into a final category of policy consideration. In this policy section, the Department addresses criteria related to:

- policies of other state and federal agencies;
- promotional practices;
- RES compliance;
- environmental cost planning;
- transmission planning compliance; and
- CO₂ emissions.

1. Other State and Federal Agencies

Minnesota Rules, part 7849.0120 D states that a CN must be granted on determining that:

the record does not demonstrate that the design, construction, or operation of the proposed facility, or a suitable modification of the facility, will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.

Nobles indicated that the proposed Project serves overall state and regional energy needs and addresses federal and state renewable energy policies. Nobles further stated that the proposed Project would meet or exceed the requirements of all federal, state, and local environmental laws and regulations.¹² Nobles provided a table listing the potential permits and approvals

¹² Petition at page 20.

needed for the proposed Project (see Table 12.4 in the Petition). The Department has no reason to believe that Nobles will fail to comply with the requirements of the listed federal, state, and local governmental agencies.

Further, the Department notes that state agencies authorized to issue permits for the proposed Project are required to present their position and participate in the public hearing process (see Minnesota Statutes, § 216B.243, subd. 7). The Department observes that the Commission has consistently considered state agency input in its final CN decisions. Therefore, the Department concludes that the record at this time does not demonstrate that the design, construction, or operation of the proposed Project, or a suitable modification of the facilities, will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.

2. Promotional Practices

Minnesota Rules, part 7849.0120 A (3) states that the Commission is to consider “the effects of promotional practices of the applicant that may have given rise to the increase in the energy demand, particularly promotional practices which have occurred since 1974.” In the Exemption Order, the Commission granted Nobles an exemption to Minnesota Rules, part 7849.0240, subp. 2 (B) which calls for the applicant to provide a summary of the promotional practices that may have given rise to the demand for the facility. The exemption was granted because Nobles does not have captive retail customers to consider. Nonetheless, Nobles stated that it has not engaged in promotional activities that could have given rise to the need for the electricity to be generated by the Project.¹³ Therefore, the Department concludes that this sub-criterion has been met.

3. RES Compliance

Minnesota Statutes § 216B.243, subd. 3 (10) states that the Commission shall evaluate “whether the applicant or applicants are in compliance with applicable provisions of sections 216B.1691” Minnesota Statutes § 216B.1691 relates to Minnesota’s requirements regarding the provision of renewable energy to retail customers. Given that Nobles has no retail customers in Minnesota, the Department concludes that this statute does not apply.

4. Environmental Cost Planning

Minnesota Statutes § 216B.243, subd. 3 (12) states that the Commission shall evaluate “if the applicant is proposing a nonrenewable generating plant, the applicant’s assessment of the risk of environmental costs and regulation on that proposed facility over the expected useful life of

¹³ Petition at page 9.

the plant, including a proposed means of allocating costs associated with that risk.” In this case, Nobles is proposing a renewable generation facility. Therefore, this statute does not apply.

5. *Transmission Planning Compliance*

Minnesota Statutes § 216B.243, subd. 3 (10) states that the Commission shall evaluate:

whether the applicant or applicants are in compliance with applicable provisions of section 216B.1691 and 216B.2425, subdivision 7, and have filed or will file by a date certain an application for certificate of need under this section or for certification as a priority electric transmission project under section 216B.2425 for any transmission facilities, or upgrades identified under section 216B.2425, subdivision 7.

Regarding transmission for the proposed Project, Nobles stated that:

Power generated by the Project will reach the electric grid by traveling through approximately 77 miles of 34.5 kV collector circuits to the newly constructed project substation. The Project will then interconnect on the Nobles to Fenton 115 kV transmission line. The electrical system design and the interconnection details will be determined as a result of studies currently being conducted by, and agreements with, MISO.

Regarding new transmission, Nobles “has no plans to become involved in owning or operating transmission lines beyond the collection and feeder lines that will be needed for interconnection of the Project.” Since Minnesota Statutes § 216B.2425 is applicable only to entities that own or operate electric transmission lines in Minnesota, the Department concludes that this statute does not apply.

6. *Carbon Dioxide Emissions*

Minnesota Statutes § 216H.03, subd. 3 states that “on and after August 1, 2009, no person shall: (1) construct within the state a new large energy facility that would contribute to statewide power sector carbon dioxide emissions.” The Department notes that the proposed Project will not contribute to statewide power sector CO₂ emissions.

III. DEPARTMENT RECOMMENDATION

Based upon the above analysis, the Department recommends that the Commission determine that Nobles has shown that:

- the probable result of denial would be an adverse effect upon the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states;
- a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record; and
- the record does not demonstrate that the design, construction, or operation of the proposed facility, or a suitable modification of the facility, will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.

Should the Commission find, after consideration of the ER, that the proposed facility "will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health," the Department recommends that the Commission issue a CN to Nobles.

Docket No. IP6964 /CN-16-289

Attachment No. 1

Rules and Statutes Addressed in the Comments		
Statute or Rule Citation	Department Comment	Location
7849.0120 CRITERIA. A certificate of need must be granted to the applicant on determining that:		
A. the probable result of denial would be an adverse effect upon the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states, considering:		
(1) the accuracy of the applicant's forecast of demand for the type of energy that would be supplied by the proposed facility;	Nobles' forecast of the need for the renewable energy expected to be produced by the proposed Project is reasonable	II.A.1.a
(2) the effects of the applicant's existing or expected conservation programs and state and federal conservation programs;	DSM is not an alternative to the proposed Project	II.B.3
(3) the effects of promotional practices of the applicant that may have given rise to the increase in the energy demand, particularly promotional practices which have occurred since 1974;	Nobles does not have captive retail customers	II.E.2
(4) the ability of current facilities and planned facilities not requiring certificates of need to meet the future demand; and	current and planned facilities not requiring a CN have not been demonstrated to be more reasonable	II.C.1.a
(5) the effect of the proposed facility, or a suitable modification thereof, in making efficient use of resources;	addressed in environmental report	II.D
B. a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record, considering:		
(1) the appropriateness of the size, the type, and the timing of the proposed facility compared to those of reasonable alternatives;	the proposed Project's size is not excessive and therefore is reasonable; the proposed Project's type is reasonable; the timing of the proposed Project is reasonable	II.B.1.a, II.B.1.b, & II.B.1.c
(2) the cost of the proposed facility and the cost of energy to be supplied by the proposed facility compared to the costs of reasonable alternatives and the cost of energy that would be supplied by reasonable alternatives;	Review of MP's cost analysis will take place when the PPA is re-filed by MP in a separate docket; the data provided by Nobles is reasonable and demonstrates wind energy's cost advantages and disadvantages relative to other new, renewable sources	II.C.1.b

(3) the effects of the proposed facility upon the natural and socioeconomic environments compared to the effects of reasonable alternatives; and	consideration of the ... the Commission-approved externality values would not impact the overall cost analysis	II.C.1.c
Rules and Statutes Addressed in the Comments cont'd.		
(4) the expected reliability of the proposed facility compared to the expected reliability of reasonable alternatives;	this sub-criterion has been met	II.C.2
C. by a preponderance of the evidence on the record, the proposed facility, or a suitable modification of the facility, will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health, considering:		
(1) the relationship of the proposed facility, or a suitable modification thereof, to overall state energy needs;	the proposed Project fits the state's overall energy needs	II.A.1.b
(2) the effects of the proposed facility, or a suitable modification thereof, upon the natural and socioeconomic environments compared to the effects of not building the facility;	addressed in environmental report	II.D
(3) the effects of the proposed facility, or a suitable modification thereof, in inducing future development; and	addressed in environmental report	II.D
(4) the socially beneficial uses of the output of the proposed facility, or a suitable modification thereof, including its uses to protect or enhance environmental quality; and	addressed in environmental report	II.D
D. the record does not demonstrate that the design construction, or operation of the proposed facility, or a suitable modification of the facility, will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.	the record at this time does not demonstrate that ... the proposed Project ... will fail to comply	II.E.1
Minnesota Statutes § 216B.243 subd. 3 (9) with respect to a high-voltage transmission line, the benefits of enhanced regional reliability, access, or deliverability to the extent these factors improve the robustness of the transmission system or lower costs for electric consumers in Minnesota	this statute does not apply	N/A
Minnesota Statutes §§ 216B.243 subd. 3a & 216B.2422, subd. 4 The Commission may not issue a certificate of need under this section for a large energy facility that generates electric power by means of a nonrenewable energy source, or that transmits electric power generated by means of a nonrenewable energy source, unless the applicant for the certificate has demonstrated to the Commission's satisfaction that it has explored the possibility of generating power by means of renewable energy sources and has demonstrated that the alternative selected is less expensive (including environmental costs) than power generated by a renewable energy source	the proposed Project meets a renewable preference	II.B.2
Minnesota Statutes § 216B.2426 The Commission shall ensure that opportunities for the installation of distributed generation, as that term is defined in section 216B.169, subdivision 1, paragraph (c), are considered	the requirement to consider distributed generation has been met	II.C.3

<p>Minnesota Statutes § 216B.1694, subd. 2 (a) (4) An innovative energy project...shall, prior to the approval by the commission of any arrangement to build or expand a fossil-fuel-fired generation facility, or to enter into an agreement to purchase capacity or energy from such a facility for a term exceeding five years, be considered as a supply option for the generation facility, and the commission shall ensure such consideration and take any action with respect to such supply proposal that it deems to be in the best interest of ratepayers;</p>	<p>this statute does not apply</p>	<p>II.C.4</p>
<p>Rules and Statutes Addressed in the Comments Cont'd</p>		
<p>Minnesota Statutes § 216B.243 subd. 3 (10) Compliance with § 216B.1691 whether the applicant or applicants are in compliance with applicable provisions of sections 216B.1691 and 216B.2425, subdivision 7...</p>	<p>this statute does not apply</p>	<p>II.E.3</p>
<p>Minnesota Statutes § 216B.243, subd. 3 (12) if the applicant is proposing a nonrenewable generating plant, the applicant's assessment of the risk of environmental costs and regulation on that proposed facility over the expected useful life of the plant, including a proposed means of allocating costs associated with that risk</p>	<p>this statute does not apply</p>	<p>II.E.4</p>
<p>Minnesota Statutes § 216B.243, subd. 3 (10) Compliance with § 216B.2425, subd. 7 whether the applicant or applicants are in compliance with applicable provisions of sections 216B.1691 and 216B.2425, subdivision 7...</p>	<p>this statute does not apply</p>	<p>II.E.5</p>
<p>Minnesota Statutes § 216H.03 on and after August 1, 2009, no person shall construct within the state a new large energy facility that would contribute to statewide power sector carbon dioxide emissions</p>	<p>the proposed Project will not contribute to statewide power sector CO₂ emissions</p>	<p>II.E.6</p>

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Comments**

Docket No. IP6964/CN-16-289

Dated this 27th day of June 2018

/s/Sharon Ferguson

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