

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger
Nancy Lange
Dan Lipschultz
Matthew Schuerger
John Tuma

Chair
Commissioner
Commissioner
Commissioner
Commissioner

Christina K. Brusven
Fredrikson & Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402

SERVICE DATE: April 28, 2016

DOCKET NO. IP-6961/CN-16-215

In the Matter of the Application of Blazing Star Wind Farm, LLC for a Certificate of Need for the 200 Megawatt Blazing Star Wind Project in Lincoln County, Minnesota

The above entitled matter has been considered by the Commission and the following disposition made:

1. **Granted the exemptions requested by Blazing Star in its March 8, 2016 filing on the condition that Blazing Star include in its application the relevant information required by Minn. R. 7849.0270 and 7849.0280, and/or seek an exemption from the certificate of need requirements should it enter into a power purchase agreement or similar arrangement with a Minnesota utility prior to submitting its application; and**
2. **Varied the 30-day requirement of Minn. R. 7849.0200, subp. 6, making the following findings:**
 - A. **Enforcing the 30-day time line would impose an excessive burden upon the public, upon parties to the proceeding, and upon the Commission and the Department because it would not allow adequate time to review the filing, schedule a Commission meeting, and prepare a written order;**
 - B. **Varying the 30-day time line would not adversely affect the public interest. Varying the 30-day timeline would instead serve the public interest by allowing time for public comment on the filing; and**
 - C. **Varying the 30-day time line would not conflict with any other standards imposed by law.**

The Commission agrees with and adopts the recommendations of the Department of Commerce, as modified, which are attached and hereby incorporated into the Order. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION



Daniel P. Wolf
Executive Secretary

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March 16, 2016

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. IP6961/CN-16-215

Dear Mr. Wolf:

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

Request by Blazing Star Wind Farm, LLC for an Exemption from Certain Certificate of Need Application Content Requirements.

The petition was filed on March 8, 2016 by:

Christina K. Brusven
Fredrikson & Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402

The Department recommends that the Commission **approve** the data exemption requests.

The Department is available to answer any questions that the Minnesota Public Utilities Commission may have in this matter.

Sincerely,

/s/ MICHAEL RYAN
Rates Analyst

MR/ja
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES

DOCKET No. IP6961/CN-16-215

I. SUMMARY OF FILING

On March 8, 2016, Blazing Star Wind Farm, LLC (Blazing Star or the Petitioner) filed a *Request for Exemption from Certain Certificate of Need Application Content Requirements* (Petition). In response to the Petition, the Minnesota Public Utilities Commission (Commission) issued its *Notice of Comment Period* on March 14, 2016 establishing March 28, 2016 and April 4, 2016 deadlines for comments and reply comments, respectively.

A. PROJECT BACKGROUND

Blazing Star is an independent power producer (IPP) proposing to construct and operate the Blazing Star Wind Project (Project). The Project is expected to not exceed 200 MW. The facility is expected to be located on an approximately 35,000-acre site in Lincoln County in southwest Minnesota and span across five townships, Hansonville, Hendricks, Marble, Shakotan, and Royal. Such a facility would qualify as a large energy facility as defined by Minn. Stat. § 216B.2421, subd. 2(1).

While the proposed facility would qualify as an “eligible energy technology” under the Minnesota Renewable Energy Standard (RES), Blazing Star does not have a buyer for the output of the proposed facility at this time. Because it is Blazing Star’s intent to sell the output of the Project “to wholesale customers, including Minnesota utilities and cooperatives . . .”, the Department concludes that the certificate of need (CN) exemption found in Minn. Stat. § 216B.243, subd. 8(7) and subd. 9 do not apply to the Project.

B. EXEMPTION REQUESTS

In the petition Blazing Star requests exemption from providing data relevant to the Minnesota Rules listed below:

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 Systemwide;
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.

The Commission has previously granted exemption requests for the items numbered above for similar IPP wind projects.¹

II. DEPARTMENT ANALYSIS

Minnesota Statute § 216B.243, subd. 2 states that no large energy facility shall be constructed without a CN. Blazing Star’s Petition requests exemption from several of the filing requirements related to a future CN application for the proposed Project.

Minnesota Rules, part 7849.0200, subp. 6 states that an exemption is appropriate if the data requirement is not necessary in order to determine the need, or can be obtained via another document:

Before submitting an application, a person is exempted from any data requirement of parts 7849.0010 to 7849.0400 if the person (1) requests an exemption from specified rules, in writing to the commission, and (2) shows that the data requirement is unnecessary to determine the need for the proposed facility or may be satisfied by submitting another document. A request for exemption must be filed at least 45 days before submitting an application. The commission shall respond in writing to a request for exemption within 30 days of receipt and include the reasons for the decision. The commission shall file a statement of exemptions granted and reasons for granting them before beginning the hearing.

¹ For examples, see Docket Nos. IP6339/CN-03-1841 (Trimont Area Wind), IP6631/CN-07-789 (Elm Creek Wind), IP6670/CN-08-334 (Wapsipinicon Wind), IP6688/CN-08-961 (EcoHarmony West Wind), IP6830/CN-09-1110 (Paynesville Wind), IP6844/CN-10-429 (Prairie Wind), IP6728/CN-09-471 (Heartland Wind), and IP6646/CN-13-193 (Stoneray Wind).

The Department examines each specific exemption request separately. The required criterion to be considered is whether the Petitioner has shown that “the data requirement is unnecessary to determine the need for the proposed facility or may be satisfied by submitting another document.”

Exemption Analysis

1. 7849.0240, subp. 2(B): Promotional Activities

This rule requires an applicant to provide an explanation of the relationship of the proposed facility to promotional activities that may have given rise to the demand for the facility. The Petitioner states that they have not engaged in any promotional activities, so there is no information to provide pursuant to this rule. The Department notes that the Commission has granted this exemption to other IPPs because these companies do not have captive retail customers and there is no authorized rate of return to consider. Since the circumstances are the same in this case, the Department recommends that the Commission grant the exemption.

2. 7849.0250, subp. B(1) – (5): Description of Certain Alternatives

Minnesota Rules, part 7849.0250 (B) requires an applicant to provide:

- B. a discussion of the availability of alternatives to the facility, including but not limited to:
 - 1) purchased power;
 - 2) increased efficiency of existing facilities, including transmission lines;
 - 3) new transmission lines;
 - 4) new generating facilities of a different size or using a different energy source (fuel oil, natural gas, coal, nuclear fission, and the emergent technologies); and
 - 5) any reasonable combinations of the alternatives listed in sub items (1) to (4).

The Petitioner requests an exemption from data requirements (1), (2), (3), and (5) as well as a partial exemption to data requirement (4).

Blazing Star states that, as an IPP, it does not purchase power; rather, the Petitioner will sell power (1). Further, the Petitioner states that it does not own any facilities in Minnesota for which it can pursue increased efficiency as an alternative to the proposed Project (2). Finally, Blazing Star indicates that it does not plan to build new transmission lines beyond what may be needed to interconnect the proposed project to the transmission grid (3). As (1) through (3) are not applicable to Blazing Star, the Petitioner requests an exemption from combinations of the alternatives listed in the subitems (5).

Blazing Star requests a partial exemption from subitem (4). Blazing Star states 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. The Petitioner

notes that the Commission has previously determined that it is appropriate to grant an exemption from the requirement to discuss any resource that would not satisfy the renewable energy generation goals of proposed wind projects. For some examples, see Docket Nos. IP6688/CN-08-961 (EcoHarmony West Wind), IP6830/CN-09-1110 (Paynesville Wind), and IP6855/CN-11-112 (Ellerth Wind).

The Department agrees that the Petitioner's requested exemptions are consistent with the requests of other IPPs. Therefore, the Department recommends that the Commission grant the requested exemptions, including the partial exemption from discussing non-renewable alternatives to the project, limiting Blazing Star's response to subitem (4) to renewable alternatives.

3. *7849.0250(C) (1) – (9): Availability of Alternatives to the Facility*

This rule requires the applicant to provide the following information for the proposed facility and each of the alternatives provided in response to 7849.0250 (B):

- 1) capacity costs in current dollars per kilowatt;
- 2) service life;
- 3) estimated average annual availability;
- 4) fuel costs in current dollars per kilowatt hour;
- 5) variable operating and maintenance costs in current dollars per kilowatt hour;
- 6) total cost in current dollars of a kilowatt hour provided by it;
- 7) estimate of its effect on rates system wide and in Minnesota;
- 8) efficiency, expressed as the estimated heat rate; and
- 9) major assumptions made in providing the above information (e.g., escalation rates used, projected capacity factors).

Nonrenewable alternatives could not fulfill the proposed purpose of increasing the supply of renewable generation. Therefore, Blazing Star proposes to provide a discussion of only the renewable alternatives discussed in response to Minnesota Rules, part 7849.0250 (B). The Department recommends that the Commission grant the exemption.

4. *7849.0250 (C) (7): Effect of Project on Rates System wide*

Since Blazing Star does not have a system and is not a utility with regulated rates, it requests an exemption from this requirement. Instead, the Petitioner proposes to submit data on the Project's impact on state or regional wholesale electricity prices. The Department recommends that the Commission grant the exemption.

5. *7849.0250 (D): Map of Applicant's System*

This rule requires provision of a map of appropriate scale showing the applicant's system. As an IPP, Blazing Star does not have a system, so such information is not reasonably available. Instead, Blazing Star proposes to submit a map showing the proposed Project

site and its location relative to the power grid. The Department recommends that the Commission grant the requested exemption.

6. *7849.0270: Peak Demand and Annual Consumption Forecast*

This rule requires the applicant to provide information regarding its system peak demand and annual energy consumption within the applicant's service area and system. Since the Petitioner does not have a system, it intends to submit information with respect to regional demand, consumption, and capacity from credible sources to show the need for the renewable energy that will be generated. The Department requests that, should Blazing Star enter into a power purchase agreement or similar arrangement with a Minnesota utility prior to submitting its CN application, the Petitioner commit to provide relevant information regarding the utility's system and future resource needs and/or seek an exemption from the CN requirements under Minn. Stat. § 216B.243, subd. 9. The Department notes that the Commission has previously allowed IPPs to provide regional data from credible sources in lieu of the data requirements of Minnesota Rules, part 7829.0270. The Department recommends that, conditioned upon Blazing Star's commitment to providing the information noted above, the Commission grant the same exemption in this proceeding.

7. *7849.0280: System Capacity*

This rule requires the applicant to describe the ability of the existing system to meet the forecasted demand for energy provided in response to Minnesota Rules, part 7849.0270. Since Blazing Star does not have a system, it is requesting an exemption from this rule. Blazing Star proposes to submit information with respect to regional demand, consumption, and capacity for independently produced renewable energy. The Department requests that, should Blazing Star enter into a power purchase agreement or similar arrangement with a Minnesota utility prior to submitting its CN application, the Petitioner commit to provide relevant information regarding the utility's system and future resource needs and/or seek an exemption from the CN requirements under Minn. Stat. § 216B.243, subd. 9. The Department recommends that the Commission grant the exemption, conditioned upon Blazing Star's commitment to providing the information noted above.

8. *7849.0290: Conservation Programs*

This rule requires the applicant to provide information regarding its energy conservation and energy efficiency programs, including load management. Since Blazing Star has no retail customers and plans to sell the proposed Project's electricity output to as yet undetermined buyers, it requests an exemption in its entirety from this requirement. The Department agrees and recommends that this exemption be granted.

9. *7849.0300: Consequences of Delay*

This rule requires the applicant to provide information regarding the consequences on its system, neighboring systems, and the power pool should the proposed facility be delayed.

The Petitioner states that since it does not have a system, this data requirement is inapplicable and unnecessary to determine the need for the proposed project. Instead, Blazing Star proposes to submit data on the consequences of delay on the potential customers and the region. The Department agrees and recommends that the Commission grant this exemption.

10. 7849.0330: Transmission Facilities

This rule requires the applicant to provide information regarding each alternative that would involve construction of a Large High Voltage Transmission Line (LHVTL). The Petitioner states that transmission facilities are not true alternatives to the proposed facility, since the purpose is to increase the supply of available renewable energy to utilities. Except for the facilities needed to interconnect the proposed Project to the broader transmission system, Blazing Star does not plan to build any transmission lines.

The Department notes that the Commission has granted this exemption in the past.² As in similar dockets, the Department concludes that transmission is not a viable alternative to the proposed project and that the data requirements regarding LHVTLs, as alternatives, are unnecessary to determine the need for the proposed facility. Therefore, the Department recommends that the Commission grant this exemption.

11. 7849.0340: No Facility Alternative

This rule requires the applicant to provide information on the alternative of no facility for each of the three levels of demand specified in Minnesota Rules, part 7849.0300. Instead, the Petitioner proposes to provide reasonably available information regarding the impact on the region if the proposed project is not built. The Department agrees that this is a reasonable way to address this information requirement.

III. DEPARTMENT RECOMMENDATION

The Department recommends that the Commission grant Blazing Star's exemption requests conditioned upon Blazing Star's commitment to providing the information relevant to Minnesota Rules, part 7849.0270 and 7849.0280, and/or request an exemption from the CN requirements pursuant to Minn. Stat. § 216B.243, subd. 9, should Blazing Star enter into a power purchase agreement or similar arrangement with a Minnesota utility prior to submitting its CN application.

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² For example, see Docket Nos. IP6646/CN-13-193, IP6902/Cn-13-163, and IP6853,6866/CN-11-471.