

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

121 7th Place East, Suite 350
St. Paul, MN 55101-2147

In the Matter of the Application of Red Pine
Wind Project, LLC for a Certificate of Need
for the 200 MW Red Pine Wind Project in
Lincoln County, Minnesota

PUC Docket No. IP-6959/CN-16-140

**REQUEST TO WITHDRAW
APPLICATION FOR
CERTIFICATE OF NEED**

I. INTRODUCTION

Red Pine Wind Project, LLC (“Red Pine”), a wholly owned subsidiary of EDF Renewable Energy, Inc. (“EDF”), recently submitted an application for a certificate of need (“CON”) in the above-referenced docket for an up to 200.1 MW wind project in Lincoln County, Minnesota (the “Project”). Since filing the CON application (the Application”) on September 16, 2016, Red Pine has finalized power offtake plans for the Project, and now believes that it qualifies for the CON exemption contained in Minn. Stat. § 216B.243, subd. 8(7) (the “IPP Exemption”). Accordingly, Red Pine respectfully requests that the Minnesota Public Utilities Commission (“Commission”) allow the withdrawal of the Application pursuant to Minn. R. 7829.0430. Red Pine continues to seek a Large Wind Energy Conversion System (“LWECS”) site permit pursuant to the application filed in PUC Docket No. IP-6646/CN-16-618. On September 30, 2016, Red Pine filed a revised LWECS permit application reflecting the updated Project plans discussed in this request. Red Pine will explain more fully below why it believes that it qualifies for the IPP Exemption.

II. ANALYSIS

A. Request to Withdraw Application for Certificate of Need

Red Pine submits that an uncontested withdrawal of the Application under Minn. R. 7829.0430, subp. 1 is justified. The Executive Secretary may approve an uncontested withdrawal if:

- A. the party that submitted the filing has requested that the filing be withdrawn and has served notice on the persons listed on the official service list;
- B. no person has expressed opposition to withdrawal of the filing within 14 days of service of the notice; and
- C. no commissioner or commission staff person has identified a reason that the matter should not be withdrawn.¹

Red Pine has fulfilled the requirement in subpart 1(A) by serving this request on the persons listed on the official service list. Anyone opposing this request has 14 calendar days from the date of service to file objections, pursuant to Minn. R. 7829.0430, subp. 2. The current comment period on completeness of the Application closes on October 17, 2016. As of this filing, only the Department of Commerce has filed comments generally in support of finding the Application complete.² Red Pine requests that this comment period be extended, or that a new comment period be opened, to accommodate this request in accordance with the rules discussed above. Unless the Commission or any other party disagrees that Red Pine qualifies for the IPP Exemption, then Red Pine should be able to withdraw the Application.

B. Qualification for Exemption

Red Pine is requesting to withdraw the Application because due to recent Project developments, a CON is no longer required. Red Pine believes that its offtake arrangement qualifies the Project for the IPP Exemption set forth in Minn. Stat. § 216B.243, subd. 8(7), which applies to:

a wind energy conversion system or solar electric generation facility if the system or facility is owned and operated by an independent power producer and the electric output of the system or facility is not sold to an entity that provides retail service in Minnesota or wholesale electric service to another entity in Minnesota other than an entity that is a federally recognized regional transmission organization or independent system operator.

¹ Minn. R. 7829.0430, subp. 1.

² Note that the Department recommended additional information be provided to satisfy Minn. Admin. Rule §7849.0250, C(6) (total cost in current dollars of a kilowatt hour provided by it). The total capital cost in dollars per kilowatt-hour is provided in Section 3.3.1 of the trade secret version of the Application on page 30. If Red Pine were to continue pursuing the CON, it could provide a calculation of the total cost of the Project in terms of dollars per kilowatt-hour using information contained in the Application.

The Project is a wind energy conversion facility owned and operated by an independent power producer (Red Pine) that intends to sell its electric output into the Mid-Continent Independent System Operator (“MISO”) wholesale energy market. MISO is a federally recognized regional transmission organization.³ The power will not be sold to an entity that provides retail service in Minnesota or wholesale electric service to another entity in Minnesota other than MISO.

Because project financing parties and tax equity investors look for stable power prices in making their financing decisions, Red Pine has negotiated a long-term hedge agreement with a large, investment grade financial institution. The electricity produced by the Project will be sold in the competitive MISO marketplace at market-based rates, and MISO will use this energy to fulfill its obligations to MISO market participants. MISO provides an open, liquid competitive market for wholesale sales of electricity. Because the power prices to be received by Red Pine from the market are variable, investors and owners are seeking to reduce this variability in order to support building of the project. By entering into the hedge agreement, Red Pine is able to obtain the price certainty necessary to support building the Project. The hedge agreement itself is a swap transaction with the counterparty that is settled at the Minnesota Hub, a liquid trading point in MISO. Under the hedge, Red Pine receives a fixed price for sales of electricity (and pays a floating price), and this transaction in aggregate offsets the variable price exposure that Red Pine experiences selling energy in the MISO marketplace. Red Pine also is exploring different opportunities to sell the renewable energy credits produced by the Project, but no commitments have been made to date.

Similar hedge structures are very common in wholesale marketplaces and are widely understood and accepted by tax equity investors, renewable energy developers and hedge counterparties as an alternative to the traditional utility power purchase agreement. Securing this arrangement for Red Pine signifies Minnesota’s competitiveness in providing energy resources and the growing market among private commercial entities for investment opportunities in clean energy.

³ “History,” MIDCONTINENT INDEPENDENT SYSTEM OPERATOR, *available at* <https://www.misoenergy.org/AboutUs/History/Pages/History.aspx> (last visited October 4, 2016).

Red Pine will be a MISO market participant, however, it is not an electric utility or otherwise regulated by the Minnesota Public Utilities Commission. Red Pine does not provide retail or wholesale electric service to customers in Minnesota and, accordingly, will have no rights to seek rate recovery related to the relevant hedge agreement. For this reason, Red Pine believes that the Project fits squarely within the Minnesota Legislature's intended beneficiaries of the IPP Exemption, which are independent power producer-owned wind and solar projects that are driven by market demand beyond Minnesota's borders.

The IPP Exemption was added to the CON statute in 2014 to recognize the expanding market for Minnesota renewable energy. As Representative Pat Garofalo explained during a hearing on one version of the bill, the CON process was created to protect Minnesota ratepayers from wasteful and duplicative utility spending on infrastructure projects.⁴ He further explained that the IPP Exemption is intended to allow independent power producers to avoid the CON process when they develop projects that export energy out of state at no cost to Minnesota ratepayers.⁵ At an earlier hearing, a wind developer representative explained that developers supported the exemption because it removes regulatory barriers and makes it easier to build projects in Minnesota and sell energy through the MISO market to purchasers in other states.⁶ EDF echoed this sentiment in testimony during several hearings on the IPP Exemption during the 2014 legislative session.

The non-utility market for renewables has expanded rapidly in recent years, even since the IPP Exemption was adopted in 2014. According to the American Wind Energy Association, more than half of the wind power purchase agreements signed in 2015 in the United States were with non-utility off-takers (2,074 MW), which was more than double the percentage in 2014 and ten times the percentage in 2013.⁷ As with utility purchasers in other states, the MISO market provides Minnesota wind projects with access to this expanding group of non-utility customers.

⁴ Hearing on H.F. 2666 Before the House Energy Policy Committee, 88th Legislature (March 18, 2014). The language in Minn. Stat. § 216B.243, subd. 8(7) was contained in several bills during the 2014 legislative session, and was eventually included in Section 13 of the Energy Omnibus Bill, H.F. 2834. Minn. Laws 2014 ch. 254 sec. 13.

⁵ *Id.*

⁶ Adam Sokolski, representing Iberdrola Renewables, Hearing on H.F. 880 Before the House Energy Policy Committee, 88th Legislature (March 8, 2014).

⁷ See Corporate Purchasers of Renewable Energy, American Wind Energy Association, available at <http://www.awea.org/Resources/Content.aspx?ItemNumber=9372> (last accessed October 6, 2016)

In the case of Red Pine, the electricity produced by the Project will be sold into the MISO wholesale energy market on a merchant basis. In its competitive markets, MISO acts as the financial clearinghouse with payments made to and from MISO and the market participant representing Red Pine for the Project. And, as explained above, to achieve more financial stability for the Project and to take advantage of the growing non-utility market for renewables, these merchant market sales will be paired with a hedge agreement with a national financial institution. This arrangement is just the type of market-expanding opportunity created by the MISO market that the Legislature intended to support by streamlining the required regulatory approvals when it added the IPP Exemption in 2014.

C. Additional Project Updates

As a result of finalizing offtake arrangements, Red Pine has also revised the anticipated project schedule to target beginning construction in the second quarter of 2017 and achieving commercial operation by December 31, 2017. In order to achieve this timeline, Red Pine has dropped plans to build a 2 mile, 345 kV transmission line to interconnect the project to the grid and instead has moved the planned location of the Project substation to be adjacent to the point of interconnection. The new substation location is shown on the updated Project maps included with the revised LWECS application filed on September 30, 2016 in the LWECS docket. Since the transmission line will not be built, Red Pine will no longer require a route permit or certificate of need for the transmission line referenced in the LWECS and CON Applications. All of these updates are set forth in more detail in the revised LWECS application.

III. CONCLUSION

Red Pine respectfully requests that it be allowed to withdraw the Application because the Project qualifies for the IPP Exemption. Red Pine will continue to pursue a LWECS site permit for the Project.

Dated: October 17, 2016

Respectfully submitted,

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