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October 7, 2021

**VIA EMAIL AND
EDOCKETS**

The Honorable James LaFave
Administrative Law Judge
Office of Administrative Hearings
PO Box 64620
St. Paul, MN 55164-0620

Re: *In re Appl. of Big Bend Wind, LLC for a Large Wind Energy Conversion System Site Permit for the Up to 308 MW Big Bend Wind Project in Cottonwood, Watonwan, & Martin Ctys, Minn.*
OAH Docket No. 60-2500-37376; MPUC Docket Nos. IP-7013/CN-19-408, IP-7013/WS-19-619, IP-7013/TL-19-621, IP-7014/CN-19-486, IP-7014/GS-19-620

Dear Judge LaFave:

The Minnesota Department of Commerce, Energy Environmental Review and Analysis, has completed its initial review of Big Bend Wind, LLC's supplemental and amended site permit application in the above referenced matter. Based on this review, DOC EERA concludes that "substantial changes have been made in the project [and] substantial new information has arisen significantly affecting the potential environmental effects of the project." Minn. R. 7850.3700, subp. 3 (2019). Accordingly, DOC EERA intends to revise and re-issue its scoping decision to reflect the revised project. *Id.* Among the issues that led DOC EERA to reach this conclusion include:

- The system alternatives identified in the original scoping decision are no longer appropriate, due to the amended turbine layout and details included in the settlement agreement.
- Three primary turbine locations that are within an area that was identified for placement of solar panels as part of the proposed Red Rock Solar Project.
- DOC EERA anticipates that the Red Rock Solar Project will need to be amended due to Big Bend's proposed turbine layout amendment. Alternatively, at a minimum, the Red Rock Solar Project and the three proposed Big Bend turbines within the Red Rock Solar Project Area will need to be independently evaluated.

- The supplemental and amended wind site permit application identifies four alternate turbine locations that could require a waiver of the Commission's wind access buffer and turbine setback requirements. These alternative locations were neither considered in the original scoping process nor subject to public comment.

In addition, DOC EERA believes its decision to revise its scoping decision is broadly consistent with the Minnesota Environmental Policy Act's goal of promoting informed decision-making. *See generally No Power Line, Inc. v. Minn. Env't Quality Council*, 262 N.W.2d 312, 327 (Minn. 1977) (MEPA's purpose is "force agencies to . . . be a source of independent expertise whose scientific investigation can uncover the data necessary to make an informed environmental decision."). Preparing an environmental assessment for a project that is neither planned by the applicant nor contemplated in the existing scoping decision is unlikely to achieve MEPA's objectives.

As shown in the attached schedule, DOC EERA intends to complete its environmental review in an expeditious manner to avoid unnecessary delay. DOC EERA believes that the attached dates reflect an aggressive, but feasible completion timeline. DOC EERA, however, has not suggested revisions to the contested case schedule. These dates—although related—are not within the scope of DOC EERA's environmental review. To the extent changes to the contested case schedule are needed, DOC EERA is available to answer questions, but other parties are likely better positioned to make recommendations.

Thank you for your attention to this matter. DOC EERA looks forward to continuing these discussions during the October 8 prehearing conference.

Sincerely,

/s/Richard Dornfeld

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Energy Environmental Review & Analysis*

Attachment

cc: Service List

ATTACHMENT A

Milestone	Current Schedule	EERA Revised
Proposed EA Scope & Preliminary Draft Site Permit Submitted	May 21, 2021	---
EA Scope Summary and Draft Site Permit Order Issued	June 3, 2021	---
EA Scope and Draft Site Permit Order Issued by Commission	June 23, 2021	---
Applicant Direct Testimony	October 1, 2021	----
<u>Notice of Substantial New Information & Comment Period on EA Scope Reevaluation</u>	---	<u>October 15, 2021</u> ¹
Intervenor Direct Testimony	November 10, 2021	---
<u>Comment Period on Amended EA Scope Reopening Ends</u>	---	<u>November 15, 2021</u>
<u>Amended EA Scope & Preliminary Draft Site Permit Submitted</u>	---	<u>November 22, 2021</u>
Rebuttal Testimony	November 30, 2021	---
EA & Notices of Public Comment Period & Hearing Issued	October 29, 2021	January 28, 2022
Joint Public Hearings (In Person & Virtual)	December 13, 2021	Week of February 14, 2022
Evidentiary Hearing	December 15-17, 2021	---
Public/Contested Case Comment Period Closes	December 24, 2021	Week of February 28, 2022
All Parties File Initial Briefs & Applicant's Proposed Findings	January 7, 2022	March 18, 2022
All Parties File Reply Briefs & Revised Findings Submitted by Intervening Parties	January 21, 2022	April 1, 2022
ALJ Report	March 7, 2022	April 29, 2022
Exceptions to ALJ Report	March 22, 2022	May 16, 2022

¹ The red text indicates added steps necessary due to substantial project changes.