

February 22, 2022

Public Advisor
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101-2147

RE: EERA Public Hearing Comments
Big Bend Wind, Red Rock Solar, and Big Bend HVTL Projects
OAH Docket No. 60-2500-37376
Docket Nos. IP7013/CN-19-408, WS-19-619, TL-19-621 and IP7014/CN-19-486, GS-19-620

Dear Public Advisor,

Energy Environmental Review and Analysis (EERA) staff provides the following comments on the Draft Site Permit (DSP) for the proposed Big Bend Wind Project and the settlement agreement associated with the Big Bend Wind Project. Additionally, EERA provides corrected information regarding previously submitted public comments and the Environmental Assessment (EA) for the Big Bend Wind Project, Red Rock Solar Project, and Big Bend HVTL Project.

Draft Site Permit

The Commission issued a Draft Site Permit (DSP) for the Big Bend Wind Project on July 22, 2021.¹ Since the issuance of the DSP, the proposed turbine locations and associated infrastructure have changed, as identified in the Settlement Agreement between the Parties in this contested case.² The DSP issued by the Commission on July 22, 2021 no longer reflects the proposed Big Bend Wind Project, and numerous sections and conditions within the DSP need to be updated prior to Commission taking up the DSP for issuance of a final site permit.

EERA has reviewed the revised DSP filed in the Ikkala Surrebuttal Testimony, Schedule F.³ EERA generally agrees with the Applicant's proposed revisions to the DSP, with the exception of the Applicant's suggested addition to DSP section 4.1 identified below:

The Commission authorizes a variance of the wind access buffer setback for the following turbine locations; A01 and A02.

¹ Commission. Order – Identifying Additional Route Segment and Issuing Draft Site Permit. July 22, 2021. eDocket # [20217-176400-03](#)

² Big Bend Wind, LLC. Other – 2021-09-14 Big Bend Settlement Agreement and Exhibits. September 14, 2021. eDocket # [20219-177943-02](#), [20219-177943-05](#), [20219-177943-08](#), [20219-177943-11](#), [20219-177943-14](#), [20219-177943-17](#), [20219-177943-20](#), and [20219-177943-23](#).

³ Big Bend Wind, LLC and Red Rock Solar, LLC. Surrebuttal – Ikkala Surrebuttal Testimony with Schedules – Part 3 of 3. January 31, 2022. eDocket # [20221-182257-17](#)

As of January 31, 2022, Big Bend Wind, LLC has not been able to secure good neighbor agreements for alternative turbine locations A01 and A02, so the Applicant continues to request a waiver of the wind access buffer setback for these alternative turbine locations. If the Applicant is not able to secure the necessary good neighbor agreements for alternative turbine locations A01 and A02, EERA does not recommend the Commission issue the waiver for the wind access buffer setback. Maintaining the 3 x 5 rotor diameter wind access buffer is important to maintain adequate setbacks from non-participating landowner parcels to avoid infringing on the wind rights of the non-participants. Additionally, the 3 x 5 rotor diameter turbine setbacks and internal turbine spacing gets to the importance of adequate turbine spacing to minimize wake loss and ensuring efficient generation is occurring at operating wind turbines. It is also important to note this is a new project, so the Applicant is not restricted to existing turbine tower locations as may be the case with an existing wind project planning to repower turbines.

Additionally, EERA has identified what we believe to be an error in the Applicant's language for the addition of DSP special condition 6.2:

6.2 Independent Monitor

*Prior to any construction, the Permittee shall propose a scope of work and identify one independent third party agency monitor on behalf of the Department of Commerce. The scope of work shall be developed in consultation with and approved by the Department of Commerce. This third-party monitor will report directly to and will be under the control of the Department of Commerce with costs borne by the Permittee. The Permittee shall file the with the Commission the scope of work 30 days prior to commencing construction and the name, address, email, phone number, and emergency phone number of the third-party monitor 14 days prior to commencing any construction **or right-of-way preparation** and upon any change that may occur during the construction of the project and restoration **of the right-of-way**.*

The language referring to the right-of-way, indicated above in red, would be appropriate in the Big Bend HVTL Project route permit, but should be deleted from the Big Bend Wind Project DSP.

EERA recommends the addition of a special condition, 6.3 Settlement Agreement Specific to the Jeffers Petroglyphs.

6.3 Settlement Agreement Specific to the Jeffers Petroglyphs

The Permittee shall adhere to, and follow, the Settlement Agreement, fully executed on September 14, 2021, entered into by and among Big Bend Wind, LLC, Red Rock Solar, LLC, Apex Clean Energy Holdings, LLC, Minnesota Historical Society, Lower Sioux Indian Community in the State of Minnesota, and the Upper Sioux Community.

The Settlement Agreement shall be followed, unless this permit establishes a different requirement in which case this permit shall prevail.

Settlement Agreement

EERA is generally in support of removing all turbines proposed to be removed in the Settlement Agreement, and the appropriate micro-siting of T24 and T25. EERA supports the use of alternative turbine locations A03, A04, A05, and A06.

As indicated earlier in this letter EERA only recommends the use of alternative turbine locations A01 and A02 if; Big Bend Wind, LLC is able to secure good neighbor agreements for the adjacent properties within the proposed turbine locations Wind Access Buffer areas.

Additionally, EERA does not believe turbine locations T22 and T23 can be constructed if the proposed hybrid Big Bend Wind and Red Rock Solar Project is to be constructed and operated. T22 and T23 turbine locations are within the proposed Red Rock Solar Project Area, and turbine construction would not be possible within the same area as the proposed solar project.

Duties of the State in Regard to Historic Properties

Under Minnesota Statutes 138.665, state departments, agencies, and political subdivisions have a responsibility to protect the physical features and historic character of properties designated in Minnesota Statutes 138.662 and 138.664 or listed on the National Register of Historic Places created by Public Law 89-665. Minnesota Statutes 138.665 states that before carrying out any undertaking that will affect designated or listed properties, or funding or licensing an undertaking by other parties, the state department or agency shall consult with the State Historic Preservation Office (SHPO) pursuant to the society's established procedures to determine appropriate treatments and to seek ways to avoid and mitigate any adverse effects on designated or listed properties. In the case of this project, the Commission is the licensing agency. As the licensing agency, the Commission is responsible for consulting with SHPO to confirm that the efforts taken by Big Bend to minimize viewshed impacts to a user at the Jeffers Petroglyphs are adequate to ensure that the proposed projects will not negatively impact the historic character of properties on the National Register of Historic Places, Jeffers Petroglyphs in this situation. EERA cannot bind the Commission, and therefore wishes to reiterate, EERA is not able to perform this consulting function on behalf of the Commission.

Public Comment Submitted to EERA

During the virtual public hearing on February 2, 2022, Mr. Davis Harder made EERA staff that comments made by Mr. Harder on April 30, 2021, during the Environmental Assessment (EA) Scoping comment period were not filed in eDockets with the other public comments EERA had received during that comment period. The omission of Mr. Harder's comments from the other public comments efiled following scoping was not intentional, and Mr. Harder's comments were taken into consideration as EERA developed the EA Scoping Decision, the Revised EA Scoping Decision, and the EA.

EERA has reviewed Mr. Harder's April 30, 2021, comments again, and has confirmed that issues identified in Mr. Harder's comments were considered in the EA Scoping Decision, Revised EA Scoping Decision, and/or the EA document itself. EERA efiled an erratum on February 8, 2022 to ensure Mr. Harder's comments submitted during the EA scoping comment period are included in the record.⁴

⁴ DOC-EERA. Public Comment – Public Comments Submitted During the PDSP and EA Scoping Comment Period. February 8, 2022, eDocket ID # [20222-182545-05](#)

Environmental Assessment Errata

EERA has identified some errors and made corrections to the Summary section and Chapter 8 of the EA completed for the Projects. These corrections are predominately formatting in nature, and ultimately do not impact the analysis completed in and recommendations identified in the EA.

EERA efiled an erratum on February 8, 2022 which includes the corrected versions of the EA Summary and Chapter 8 of the EA.⁵

EERA staff appreciates the opportunity to provide these comments. I am available to answer any questions you might have.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Davis". The signature is fluid and cursive, with the first name "Richard" and last name "Davis" clearly distinguishable.

Richard Davis, Environmental Review Manager
Energy Environmental Review and Analysis

cc: Cezar Panait, Public Utilities Commission
Charley Bruce, Public Utilities Commission
Bret Eknes, Public Utilities Commission
Louise Miltich, Energy Environmental Review and Analysis

⁵ DOC-EERA. Other – Corrections to the Environmental Assessment 2-2-22. February 8, 2022, eDocket ID # [20222-182544-01](#)