

Minnesota Public Utilities Commission

Staff Briefing Papers

Meeting Date: **August 25, 2016** Agenda Item #1*

Company: Getty Wind Project, LLC

Docket No. IP6866/WS-11-831, IP6866/WS-10-1240

In the Matter of the Application of Getty Wind Company, LLC for a Site Permit Transfer of the Getty Wind Project Large Wind Energy Conversion Site Permit in Stearns County

Issue(s): Should the Commission grant the petition for a site permit transfer from Getty Wind Company, LLC to Black Oak Wind, LLC?

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Background Documents

Commission – Order Issuing Site Permit (Getty Wind Project)..... January 28, 2013
Black Oak Wind and Getty Wind - Application on a Petition for Site Permit July 26, 2016
MN DNR – Letter (Comments) August 5, 2016
DOC EERA – Comments..... August 9, 2016

The attached materials are work papers of the Commission staff. They are intended for use by the Minnesota Public Utilities Commission (Commission) and are based upon information already in the record unless noted otherwise.

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I. Statement of Issue

Should the Commission grant the petition for a site permit transfer from Getty Wind Company, LLC to Black Oak Wind, LLC?

II. Procedural History

See DOC EERA Comments.

III. Relevant Law

A. Statute

Minn. Stat. 216F is silent on the topic of site permit transfer.

B. Rule

Minn. Rule 7854.1400, Permit Transfer, requires that the permittee apply to the Commission for transfer of its permit. The permittee must provide the name of the existing permittee, the name and description of the persons to whom the permit is being transferred, the reasons for the transfer, a description of the facilities affected, and the requested date of the transfer. Information must be provided sufficient to determine that the new permittee can comply with the conditions of the permit.

The Commission shall approve the transfer if the Commission determines that the new permittee will comply with the conditions of the permit. The Commission can impose reasonable conditions as part of the approval and can require a public meeting to be held.

C. Relevant Permit Conditions included in the Getty Wind Site Permit

Permit Condition 11.5 Transfer of Permit reiterates the requirements listed in Minn. Rule 7854.1400 and requires additional filings regarding ownership structure.

IV. Comments

Department of Commerce – Energy Environmental Review and Analysis (DOC EERA)

On August 9, 2016 the DOC EERA staff filed comments. Staff does not repeat DOC EERA's comments and refers to the brief comments as an overview of the issue.

DOC EERA concluded that it was not aware of existing actions or conditions which would preclude the Commission's approval of the transfer. DOC EERA also requested that while Black Oak Wind, LLC would own the two projects (the existing Black Oak project and now the Getty Wind Project) that each would continue to have separate site permits.

Minnesota Department of Natural Resources

On August 5, 2016, the Minnesota Department of Natural Resources (MN DNR) filed comments on the matter which indicated that the current parent entity of the project, Sempra U.S. Gas and Power has been working with the MN DNR to finalize the Avian and Bat Post Construction Monitoring Plan (Plan) Survey Design and to date Sempra has incorporated the MN DNR's suggested comments on the Plan. The MN DNR indicated that it was not proposing any changes to the Plan at this time.

Public Comments

As is typical practice, a public comment period was noticed to the official service lists, the project contact lists, and state agency representatives. In this case, notice was provided to all three related dockets (Black Oak-Getty Certificate of Need Docket, Black Oak Wind Site Permit Docket and the Getty Wind Project Site Permit Docket).

No public comments were received.

V. Staff Discussion

Staff agrees with the DOC EERA that a site permit transfer should be granted and staff believes several factors support this conclusion. First, the entity that the permit is being requested to be transferred to – Black Oak Wind, LLC – is an entity that currently holds a valid site permit issued by the Commission. Second, no issues on non-compliance have been experienced by either project, both with the same parent entities. Third, the consolidation of these projects was discussed in a transparent manner throughout the permitting process and the proper information has been filed in the record.

Staff also agrees that site permits should remain separate. The record development, permit authorizations and on-going compliance reporting has been maintained separately and for administrative purposes it would be most efficient to *not* consolidate the permits. If the Commission adopts staff's recommendation, separate permits will be continued. Last, staff will file a modified site permit into the record prior to the agenda which transfers the permit to Black Oak Wind. However at the time of filing the staff briefing papers that document is not yet compiled.

VI. Decision Alternatives on Site Permit Transfer

- A. Authorize the Site Permit Transfer from Getty Wind Company, LLC to Black Oak Wind, LLC.
- B. Authorize the Site Permit Transfer from Getty Wind Company, LLC to Black Oak Wind, LLC and request the permits be consolidated.
- C. Do not authorize the site permit transfer.
- D. Request additional information.
- E. Take some other action.

Staff recommends A.