

Minnesota Public Utilities Commission

Staff Briefing Papers

Meeting Date: July 13, 2017.....Agenda Item *3

Company: Blazing Star Wind Farm, LLC

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 up to 200 Megawatt Blazing Star Wind Project in Lincoln County, Minnesota

- Issues:
- Should the Commission find that the environmental report and the record created in this matter adequately address the issues identified in the environmental report scoping decision?

 - Should the Commission grant a certificate of need for the up to 200 megawatt Blazing Star Wind Farm proposed in Lincoln County, Minnesota?

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Relevant Documents

Commission Order Granting Exemptions from Certain Certificate of Need Application Content Requirements April 28, 2016
Application for a Certificate of Need..... July 20, 2016
Environmental Report Scoping Decision..... January 11, 2017 (Filed January 12, 2017)
Department of Commerce Division of Energy Resources Comments February 3, 2017
Blazing Star Wind Farm, LLC Reply Comments March 6, 2017
Environmental Report March 15, 2017
Administrative Law Judge’s Summary of Public Testimony, Findings of Fact, Conclusions of Law, and Recommendation June 1, 2017

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

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I. STATEMENT OF ISSUES

- Should the Commission find that the environmental report and the record created in this matter adequately address the issues identified in the environmental report scoping decision?
- Should the Commission grant a certificate of need for the up to 200 megawatt Blazing Star Wind Farm proposed in Lincoln County, Minnesota?

II. PROJECT DESCRIPTION

Blazing Star Wind Farm, LLC, (Blazing Star or Applicant) has filed a certificate of need application with the Minnesota Public Utilities Commission for a 200 megawatt large wind energy conversion system (LWECS). The proposed LWECS would be comprised of 57 to 100 wind turbines ranging from 2 to 3.5 megawatts in size with associated facilities that include a project substation, an operation and maintenance building, access roads, meteorological towers, light range or sonic range detecting units, underground communication and electrical collection lines, transformers, and an approximately 1,000 foot long transmission line. The project would interconnect at the Brookings to Lyon County 345 kilovolt transmission line. The proposed project footprint would occupy approximately 37,200 acres of land located in Hansonville, Hendricks, and Marble townships in Lincoln County, Minnesota.¹

Blazing Star is an independent power producer based in Edina, Minnesota that is owned by Geronimo Energy, LLC, a utility-scale wind and solar energy developer also based in Edina, Minnesota. As indicated by Blazing Star in its application: 1) the proposed project is needed to meet the Renewable Energy Standard and other clean energy requirements in Minnesota and neighboring states; and 2) power purchase agreements will be negotiated with utilities requiring the purchase of additional renewable energy or the project's output will be made available for purchase on the wholesale market. The anticipated in-service date for the project is the end of 2018, depending on completion of regulatory approvals and the Midcontinent Independent System Operator interconnection process.

III. PROCEDURAL HISTORY

On March 8, 2016, Blazing Star filed a request for exemption from certain certificate of need application content requirements.

¹ Less than one percent of the 37,200 acres will be occupied by above ground facilities (LWECS Site Permit Application at 3).

On April 28, 2016, the Commission issued an order that granted the exemptions requested by Blazing Star in its March 8, 2016 filing. Specifically, the Commission granted exemption from the following parts of Minnesota Rules, chapter 7849: 7849.0240, subp. 2(B); 7849.0250, subp. B(1) – (3) and (5); 7849.0250, subp. B(4); 7849.0250 (C)(1) – (6) and (8); 7849.0250 (C)(7); 7849.0250 (D); 7849.0270; 7849.0280; 7849.0290; 7849.0300; 7849.0330; and 7849.0340. Concerning parts 7849.0270 and 7849.0280, the Commission directed that Blazing Star must provide the information required under those parts should it enter into a power purchase agreement prior to submitting its certificate of need application. The order also varied the 30-day requirement of Minn. R. 7849.0200, subp. 6.

On July 20, 2016, Blazing Star filed a certificate of need application for the Blazing Star Wind Farm, an up to 200 megawatt LWECS to be located in Lincoln County, Minnesota.²

On September 19, 2016, the Commission issued an order that among other procedural items: 1) accepted the certificate of need application as substantially complete; and 2) directed use of the informal review process set forth under Minn. R. 7829.1200, to develop the certificate of need record.

On October 28, 2016, the Commission issued an order in the related site permit matter that among other procedural items: 1) accepted the site permit application as substantially complete; 2) required supplemental information to be filed prior to the public information meeting; 3) required that the site permit application review process be combined with the certificate of need application review process, expanded the certificate of need public hearing process to include issues related to the site permit application, and referred to the Office of Administrative Hearings.

On December 6, 2016, the Commission issued a notice requesting comments on the merits of the certificate of need application. Initial comments were accepted until February 6, 2017, and reply comments were accepted until March 6, 2017. Comments were received from the Department of Commerce Division of Energy Resources (DOC-DER) and the Applicant.

On December 6, 2016, staff from the Commission and the Department of Commerce Energy Environmental Review and Analysis (DOC-EERA) held a public information and environmental report scoping meeting at the Hendricks Public School in Hendricks, Minnesota. A comment period following the public meeting was open until December 27, 2016, to receive comments on the scope of the environmental report for the certificate of need application and on the draft site permit in connection with the site permit application.

² Blazing Star also filed a separate site permit application for the proposed LWECS facility on September 2, 2016. See Docket No. IP-6961/WS-16-686.

On January 12, 2017, DOC-EERA filed the Environmental Report Scoping Decision which set forth matters to be addressed in the Environmental Report.

On February 3, 2017, DOC-DER filed comments on the merits of the certificate of need application recommending the Commission issue a certificate of need for the Blazing Star Wind Farm.

March 6, 2017, the Applicant filed comments in response to DOC-DER's February 3, 2017 Comments concurring with DOC-DER's recommendation.

On March 17, 2017, EERA filed the Environmental Report.

On April 3, 2017, Administrative Law Judge Jessica Palmer-Denig (ALJ) presided over a joint public hearing on the certificate of need and site permit applications that was held at the Hendricks Public School in Hendricks, Minnesota. A comment period following the public hearing was open until April 17, 2017.

On June 1, 2017, the ALJ filed the Summary of Public Testimony, Findings of Fact, Conclusions of Law, and Recommendation (ALJ Report). Because the Commission authorized review of the certificate of need application using the Informal Review Process, the ALJ report did not include conclusions or a recommendation with regard to the certificate of need application with the exception of findings detailing the procedural steps followed in the certificate of need matter (Findings 30 to 51).

IV. STATUTES AND RULES

Certificate of Need. Under Minn. Stat. § 216B.243, subd. 2, no large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the Commission.

Large Energy Facility. The proposed project is defined as a large energy facility under Minn. Stat. § 216B.2421, subd. 2(1), because it is a large electric power generating plant with a capacity of 50 megawatts or more that will connect to the transmission system.³

Granting a Certificate of Need. In assessing the need for a proposed large energy facility the Commission must consider the factors listed under each of the criteria set forth in Minn. Stat. § 216B.243, subd. 3, and Minn. R. 7849.0120.

³ See also Minn. R. 7849.0010, subp. 13.

Procedural Treatment of Application. The Commission directed use of the informal review process set forth under Minn. R. 7829.1200. The informal review process consists of an initial and reply comment period and a public hearing.⁴

Timing. Under Minn. Stat. § 216B.243, subd. 5, the Commission shall approve or deny a certificate of need for a large energy facility within 12 months of the submission of an application.

Environmental Report. Minn. R. 7849.1000 to 7849.2100, establishes the requirements concerning preparation of an environmental report for a large energy facility requiring a certificate of need. The environmental report is a document that describes the human and environmental impacts of a proposed large energy facility and alternatives to the project and methods to mitigate anticipated adverse impacts. At the time the Commission makes a final decision on the certificate of need application it must determine whether the environmental report and the record in the matter address the issues identified in the environmental report scoping decision.

A. COMMENTS ON THE MERITS OF THE CERTIFICATE OF NEED APPLICATION

A notice was issued by the Commission on December 6, 2016, requesting comments on the merits of the certificate of need application. Initial comments were accepted until February 6, 2017, and reply comments were accepted until March 6, 2017. Initial comments were filed by DOC-DER and reply comments were filed by the Applicant.⁵

B. Department of Commerce Comments and Analysis

Initial comments and recommendations filed by DOC-DER indicated that it had reviewed the certificate of need application in conjunction with the relevant statutory and rule requirements. As explained by DOC-DER, the criteria to be considered by the Commission in making a certificate of need determination are included in different sections of Minnesota Statutes and Rules that are not consistently reflected in one another. Therefore, DOC-DER grouped all of the relevant statutory and rule criteria into five categories: need analysis, link to planning process, alternatives analysis, socioeconomic analysis, and policy analysis.

⁴ See also Minn. R. 7829.2500, subp. 9.

⁵ A comment letter was received from one member of the public outside the prescribed comment period (Document ID 20173-130153-02). In summary, the commenter, Mr. Robert Rosenthal, contended that the conditions under Minn. R. 7853.0120, had been met; that there are no environmental or human impacts associated with the proposed project; and that the Commission should issue a certificate of need and a site permit for the project.

Rather than repeat DOC-DER's full analysis in these briefing papers, staff has reproduced the table included in DOC-DER's comments summarizing its analysis in relation to the statutory and rule criteria. Staff refers the Commission to the DOC-DER's February 2, 2017 Comments for its complete analysis.

Summary of Statutory Criteria

Statutory Criteria: Minn. Stat. § 216B.243	Location Addressed in DER's Comments	DER's Statement
Minn. Stat. § 216B.243, subd. 3 (9)	N/A	The proposed project is not a transmission line.
Minn. Stat. §§ 216B.243, subd. 3a and 216B.2422, subd. 4	<i>Renewable Preference</i> Section II, B, 2, Page 7-8	Minnesota Statutes indicate a clear preference for renewable facilities. The proposed facility meets that preference.
Minn. Stat. § 216B.2426	<i>Distributed Generation Analysis</i> Section II, C, 3, Page 10-11	No proposals for distributed generation as an alternative to the proposed project have been filed in this proceeding. Potential buyers of the proposed project's output should have an incentive to use the lowest cost resource available, including distributed generation. The Department concludes that the requirement to consider distributed generation has been met.
Minn. Stat. § 216B.1694, subd. 2 (a) (5)	<i>Innovative Energy Project Preference</i> Section II, C, 4, Page 11	This statute does not apply since the proposed facility is not a fossil-fuel-fired generation facility.
Minn. Stat. §§ 216B.243, subd. 3 (10) and 216B.1691	<i>RES Compliance</i> Section II, E, 3, Page 13	Given that the Applicant has no retail customers Minnesota, the Department concludes that this statute does not apply.
Minn. Stat. § 216B.243, subd. 3 (12)	<i>Environmental Cost Planning</i> Section II, E, 4, Page 14	In this case, the Applicant is proposing a renewable generation facility. Therefore, this statute does not apply.
Minn. Stat. §§ 216B.243, subd. 3 (10) and 216B.2425, subd. 7	<i>Transmission Planning Compliance</i> Section II, E, 5, Page 14	Since Minn. Stat. § 216B.2425, is applicable only to entities that own or operate electric transmission lines in Minnesota, this statute does not apply in this proceeding.
Minn. Stat. §§ 216B.243, subd. 3 and 216B.243, subd. 3 (8)	<i>DSM Analysis</i> Section II, B, 3, Page 8	The Applicant does not have retail customers and does not operate any conservation programs. It is unlikely that the regional needs for wind energy could be met through conservation programs.

Statutory Criteria: Minn. Stat. § 216B.243	Location Addressed in DER's Comments	DER's Statement
Minn. Stat. § 216H.03	Section II, E, 6, Page 14	Since wind energy projects do not produce carbon dioxide emissions the Department concludes that the proposed Project does not violate this statute.

Summary of Rule Criteria

Rule Criteria: Minn. R. 7849.0120	Location Addressed in DER's Comments	DER's Statement
Minn. R. 7849.0120, subp. A (1)	Section II, A, 1, a, Pages 3-5	Considering the need for renewable energy in the region, the Department concludes that the Applicant's forecast of the need for the renewable energy expected to be produced by the proposed Project is reasonable.
Minn. R. 7849.0120, subp. A (2)	Section II, B, 3, Page 8	The Applicant does not have retail customers and does not operate any conservation programs. It is unlikely that the regional needs for wind energy could be met through conservation programs.
Minn. R. 7849.0120, subp. A (3)	Section II, E, 2, Page 13	The Applicant states that it has not engaged in any promotional activities directed toward increasing demand. Therefore, the Department concludes that this sub criterion has been met.
Minn. R. 7849.0120, subp. A (4)	Section II, C, 1, a, Pages 8-9	Current and planned facilities not requiring a certificate of need have not been demonstrated to be more reasonable than the proposed project.
Minn. R. 7849.0120, subp. A (5)	Section II, D, Pages 11-12	The general site and expected turbine placements minimize the proposed project's effect on land use and human impact and enable the use of an existing transmission line.
Minn. R. 7849.0120, subp. B (1)	<i>Size, Type, and Timing</i> Section II, B, 1, Pages 5-6	The Department concludes that the proposed project's size is not excessive and the type and timing are reasonable.
Minn. R. 7849.0120, subp. B (2)	Section II, C, 1, b, Pages 9-10	Wind energy resources are cost effective when compared with other renewable resources.
Minn. R. 7849.0120, subp. B (3)	Section II, C, 1, c, Page 10	Comparing the effects of the proposed project with another wind project of this size is not likely to result in significant differences.

Rule Criteria: Minn. R. 7849.0120	Location Addressed in DER's Comments	DER's Statement
Minn. R. 7849.0120, subp. B (4)	Section II, C, 2, Page 10	The proposed project is expected to be available 97 percent of the time and have a capacity factor of approximately 45 to 50 percent. The Department concludes that this sub criterion has been met.
Minn. R. 7849.0120, subp. C (1)	<i>Overall State Energy Needs</i> Section II, A, 1, b, Page 5	The proposed project could help Minnesota meet its energy needs while supporting the state's renewable energy and greenhouse gas emissions-reduction goals.
Minn. R. 7849.0120, subp. C (2)	Section II, C, 3 and Section II, D, Pages 10-12	The Department relies on its Environmental Report for its socioeconomic analysis.
Minn. R. 7849.0120, subp. C (3)	Section II, D, Pages 11-12	The Department relies on its Environmental Report for its socioeconomic analysis.
Minn. R. 7849.0120, subp. C (4)	Section II, D, Pages 11-12	The Department relies on its Environmental Report for its socioeconomic analysis.
Minn. R. 7849.0120, subp. D	Section II, E, 1, Pages 12-13	The Department has no reason to believe that the Applicant will fail to comply with the requirements of the listed federal and state agencies and local and tribal governments.

In its comments, DOC-DER recommended that the Commission make the following findings with regard to the certificate of need application:

- Find that Blazing Star has met each of the five criteria listed under Minn. R. 7849.0120 A, and has demonstrated that “the probable result of denial would be an adverse effect upon the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant’s customers, or to the people of Minnesota and neighboring states;”
- Find that Blazing Star has met each of the four criteria listed under Minn. R. 7849.0120 B, and has demonstrated that “a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence on the record;” and
- Find that Blazing Star has met the criteria under Minn. R. 7849.0120, subp. D, and has established that “the record does not demonstrate that the design, construction, or operation of the proposed facility, or a suitable modification of the facility, will fail to

comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.”

DOC-DER recommended that the Commission issue a certificate of need for the Blazing Star Wind Project should it determine that the proposed facility also meets the four criteria under Minn. R. 7849.0120, subp. C, and “will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health,” after considering the Environmental Report.

C. Blazing Star Reply Comments

In its reply comments, Blazing Star indicated that it agreed with the DOC-DER’s recommendation to grant a certificate of need for the proposed project.

V. ADMINISTRATIVE LAW JUDGE REPORT

As stated earlier in these briefing papers, the ALJ was not required to provide Findings of Fact, Conclusions of Law, and Recommendation in the certificate of need matter. The Commission authorized that the certificate of need matter be reviewed using the informal review process in its September 19, 2016 Order. However, the ALJ did make findings detailing the procedural steps that were taken in order to comply with the informal review requirements under Minn. R. 7829.1200.⁶

VI. STAFF DISCUSSION

Based on information in Blazing Star’s certificate of need application, the analysis provided in the environmental report, recommendations from the DOC-DER, the ALJ Report, and other evidence in the record; staff provides the following discussion and recommendations.

A. Environmental Report

Staff has reviewed the environmental report and believes that the DOC-EERA conducted an appropriate environmental analysis of the project for purposes of this proceeding, and that the environmental report satisfies the requirements in Minn. R. 7849.1200. The environmental report did not identify any unique or significant environmental impacts from the construction and operation of the project that could not be properly mitigated. The report also discussed potential alternatives to the project such as the proposed project itself, a different sized LWECS facility in another location, a 38.5 MW biomass plant alternative, the no-build alternative, and alternative renewable energy technologies. In addition, no comments were received or information

⁶ ALJ Report at Findings 30 to 51.

submitted into the record that contest the information and analysis contained in the environmental report. Therefore, staff recommends that, pursuant to Minn. R. 7849.1800, subp. 2, the Commission find that the Environmental Report and the record created at the public hearing address the issues identified in the January 11, 2017 Environmental Report Scoping Decision.

B. Certificate of Need

Staff agrees with the recommendation of the DOC-DER that Blazing Star has demonstrated that the project meets the criteria set forth under Minn. R. 7849.0120 (A, B, and D). Staff further believes that based on a consideration of the factors set forth in Minn. R. 7849.0120(C), the environmental report and evidence in the record demonstrates that the project will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health. Therefore, staff agrees with the Department that the Commission should issue a certificate of need to Blazing Star Wind Farm, LLC, for the up to 200 MW Blazing Star Wind Farm to be located in Lincoln County, Minnesota.

COMMISSION DECISION ALTERNATIVES

A. Environmental Report

1. In accordance with Minn. R. 7849.1800, subp. 2, determine that the Environmental Report and the record created in this matter address the issues identified in the January 11, 2017 Environmental Report Scoping Decision made pursuant to part 7849.1400, subpart 7.
2. In accordance with Minn. R. 7849.1800, subp. 2, determine that the Environmental Report and the record created in this matter do not address the issues identified in the January 11, 2017 Environmental Scoping Decision made pursuant to part 7849.1400, subpart 7, and direct the DOC-EERA to prepare a supplement to the report that addresses the identified deficiencies.
3. Take some other action deemed more appropriate.

B. Certificate of Need

1. Grant a certificate of need for the up to 200 megawatt Blazing Star Wind Farm proposed in Lincoln County, Minnesota, finding that:
 - a. the factors set forth in Minn. R. 7849.0120(A), have been met and that denying the application would likely harm the future adequacy, reliability, or efficiency of the energy supply to Blazing Star Wind LLC's customers;
 - b. the factors set forth in Minn. R. 7849.0120(B), have been met and that a more reasonable and prudent alternative to the project has not been demonstrated by a preponderance of the evidence in the record;
 - c. the factors set forth in Minn. R. 7849.0120(C), have been met and that the preponderance of the evidence in the record demonstrates that the project will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health; and
 - d. the factors set forth in Minn. R. 7849.0120(D), have been met and that the record does not demonstrate that the design, construction, or operation of the project, or a suitable modification of the project, will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.
2. Deny a certificate of need for the up to 200 megawatt Blazing Star Wind Farm proposed in Lincoln County, Minnesota.
3. Take some other action deemed more appropriate.

Staff Recommendation: A1 and B1(a-d)