

December 6, 2018

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
Saint Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. IP-6997/CN-18-699

Dear Mr. Wolf:

Attached are the Comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matter:

Request for Exemption from Certain Application Content Requirements for the Application of Plum Creek Wind Farm, LLC for a Certificate of Need for an up to 414 MW Large Wind Energy Conversion System and 345-kV Transmission Line in Cottonwood, Murray, and Redwood Counties, Minnesota.

The petition was filed on behalf of Plum Creek Wind Farm, LLC on November 9, 2018 by:

Christina K. Brusven
Lisa M. Agrimonti
Fredrickson and Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, Minnesota, 55402-1425

The Department recommends that the Minnesota Public Utilities Commission (Commission) **approve the data exemption requests with conditions**. The Department is available to answer any questions the Commission may have.

Sincerely,

/s/ MICHAEL N. ZAJICEK
Rates Analyst

MNZ/jl
Attachment

85 7th Place East - Suite 280 - Saint Paul, MN 55101 | P: 651-539-1500 | F: 651-539-1547
mn.gov/commerce
An equal opportunity employer

Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. IP-6997/CN-18-699

I. SUMMARY OF FILING

On November 13, 2018 Plum Creek Wind Farm, LLC (Plum Creek or the Applicant) filed the Company's *Request for Exemption from Certain Application Content Requirements* (Petition). The Applicant also filed a notice plan petition on November 11, 2018, to which the Minnesota Department of Commerce, Division of Energy Resources (Department) responded on November 28, 2018 in separate comments.

On November 26, 2018 the Minnesota Public Utilities Commission (Commission) issued its *Notice of Comment Period on Request for Exemption from Certain Certificate of Need Filing Requirements* (Notice). The Notice asked: "Should the Commission grant the exemptions to the certificate of need application content requirements as requested by Plum Creek Wind Farm, LLC?"

A. PROJECT BACKGROUND

Plum Creek is an independent power producer (IPP) that plans to construct a 345-kilovolt (kV) transmission line and construct associated facilities in Cottonwood, Murray, and Redwood Counties, Minnesota. According to Plum Creek, the project is required to connect a 414-megawatt (MW) wind farm located in Cottonwood, Murray, and Redwood Counties, Minnesota, to the existing Brookings to Hampton 345-kV transmission line in Redwood County, Minnesota. The Company intends to sell power produced by this wind farm into the market.

B. EXEMPTION REQUESTS

In the Petition, Plum Creek requests exemption from providing data relevant to the Minnesota Rules listed below:

- i. 7849.0240, subp. 2 (B);
- ii. 7849.0250 (B) 1-5;
- iii. 7849.0250 (C) 1 to 6, 8 and 9;
- iv. 7849.0250 (C) 7;

85 7th Place East - Suite 280 - Saint Paul, MN 55101 | P: 651-539-1500 | F: 651-539-1547
mn.gov/commerce

An equal opportunity employer

- v. 7849.0250 (D);
- vi. 7849.0260 (A) 3 and (C) 6;
- vii. 7849.0269 (B) 1;
- viii. 7849.0260 (C) 5;
- ix. 7849.0260 (D);
- x. 7849.0270;
- xi. 7849.0280;
- xii. 7849.0290;
- xiii. 7849.0300;
- xiv. 7849.0330; and
- xv. 7849.0340.

Plum Creek notes that the Commission has previously granted exemption requests for these items for IPP projects.

Below are the Comments of the Department regarding the Petition.

II. DEPARTMENT ANALYSIS

A. GOVERNING STATUTE

Minnesota Statutes § 216B.243, subd. 2 states that no large energy facility (LEF) shall be constructed without a certificate of need (CN). At 414 MW, the proposed Project qualifies as an LEF. Plum Creek's Petition requests exemption from several of the filing requirements related to a future CN application for the proposed Project.

Minnesota Rules, part 7849.0200, subp. 6 states that an exemption is appropriate if the data requirement is not necessary in order to determine the need, or can be obtained via another document:

Before submitting an application, a person is exempted from any data requirement of parts 7849.0010 to 7849.0400 if the person (1) requests an exemption from specified rules, in writing to the Commission, and (2) shows that the data requirement is unnecessary to determine the need for the proposed facility or may be satisfied by submitting another document. A request for exemption must be filed at least 45 days before submitting an application.

The Department examines each specific exemption request separately. The criterion to be considered is whether Plum Creek has shown that “the data requirement is unnecessary to determine the need for the proposed facility or may be satisfied by submitting another document.”

B. EXEMPTION ANALYSIS

1. 7849.0240, subp. 2 (B): Promotional Activities

This rule requires an applicant to provide an explanation of the relationship of the proposed facility to promotional activities that may have given rise to the demand for the facility. Plum Creek states that the Company “has not engaged in any promotional activity.” The Department notes that the Commission has granted this exemption to IPPs because these companies do not have captive retail customers.

2. 7849.0250 (B) 1-5: Description of Certain Alternatives

This rule requires an applicant to provide a discussion of the availability of alternatives to the facility, including but not limited to:

- 1) purchased power;
- 2) increased efficiency of existing facilities, including transmission lines;
- 3) new transmission lines;
- 4) new generating facilities of a different size or using a different energy source; and
- 5) any reasonable combinations of the alternatives listed in sub items (1) to (4).

Plum Creek requests an exemption from information requirements 1, 2, 3 and 5 as they are not applicable and a partial exemption of requirement 4 such that Plum Creek not address non-renewable alternatives. The Department agrees with the Applicant that an exemption to the extent an alternative cannot address the need for renewable power is reasonable.

Regarding Minnesota Rules 7849.0250 (B) 1, Plum Creek’s is proposing to produce power to sell to utilities in the market, and thus purchased power is not an alternative. Thus, an exemption is appropriate.

While the requirements of Minnesota Rules 7849.0250 (B) 2, 3 and 5 are not applicable to Plum Creek as the Applicant is not a vertically integrated regulated utility and therefore has no existing facilities in Minnesota for which efficiency could be improved in order to mitigate the need for the project, and does not own or plan to own transmission lines other than those

needed for the interconnection of the project. Therefore, the Department recommends that the exemption be granted.

3. *7849.0250 (C) 1 to 6, 8 and 9: Availability of Alternatives to the Facility*

This rule requires an applicant to provide the following information for the proposed facility and each of the alternatives provided in response to Minnesota Rules 7849.0250 (C):

- 1) capacity costs in current dollars per kilowatt;
- 2) service life;
- 3) estimated average annual availability;
- 4) fuel costs in current dollars per kilowatt hour;
- 5) variable operating and maintenance costs in current dollars per kilowatt hour;
- 6) total cost in current dollars of a kilowatt hour provided by it;
- 7) estimate of its effect on rates system wide and in Minnesota;
- 8) efficiency, expressed as the estimated heat rate; and
- 9) major assumptions made in providing the above information (e.g., escalation rates used, projected capacity factors).

Plum Creek requests a partial exemption from this Rule to limit its discussion to only renewable alternatives similar to their request for exemption from Minnesota Rules 7849.0250 (B). Specifically since the intent of the project is to provide renewable energy to sell to the market, examination of non-renewable alternatives would be irrelevant.

The Department agrees that the required information—regarding non-renewable alternatives—is not relevant to analysis of alternatives to Plum Creek’s proposed Project and that limiting the requirement to renewable alternative data will better address the proposed need. Therefore, the Department recommends that the Commission grant the proposed exemption.

4. *7849.0250 (C) 7: Effect of Project on Rates System-wide*

This rule requires an applicant to provide an estimate of the project’s effect on rates system-wide and in Minnesota, assuming a test year beginning with the proposed in-service date. Plum Creek requests an exemption because Plum Creek does not operate a system and is not a utility with retail rates. The Commission has granted a similar exemption to IPPs because IPPs do not have a system. Therefore, the Department recommends that the Commission grant the proposed exemption.

5. *7849.0250 (D): Map of Applicant's System*

This rule requires an applicant to provide a map of the applicant's system. Plum Creek requests an exemption because Plum Creek does not operate a system and thus the information does not exist. As an alternative, Plum Creek proposes to file a map showing the site of Plum Creek's project, including the generation-tie line and its proposed interconnection to the transmission grid. The Department agrees that the proposed alternative map would contain more relevant data. Therefore, the Department recommends that the Commission approve the requested exemption with the provision of Plum Creek's proposed alternative data.

6. *7849.0260 (A) 3 and (C) 6: Line Loss Data*

Minnesota Rules 7849.0010 subpart 13 defines a large electric generating facility (LEGF) as an "electric power generating unit or combination of units as defined by Minnesota Statutes, section 216B.2421, subdivision 2, clause (1)." In turn, Minnesota Statutes 216B.2421 subd. 2 (1) defines a large energy facility as "any electric power generating plant or combination of plants at a single site with a combined capacity of 50,000 kilowatts or more and transmission lines directly associated with the plant that are necessary to interconnect the plant to the transmission system." Therefore, under Minnesota Rules the transmission line is not considered to be a facility separate from the generating unit and does not qualify as a large high voltage transmission line (LHVTL).¹

Minnesota Rules 7849.0260 requires data be provided regarding applications for an LHVTL. Since Plum Creek is not proposing a LHVTL (the transmission line is considered part of the LEGF), none of the data requirements are applicable and an exemption is not needed.

7. *7849.0260 (B) 1: Alternatives to the Transmission Line*

Although the Applicant requests an exemption to this rule, as discussed above, Minnesota Rules 7849.0260 requires data be provided regarding applications for an LHVTL. Since Plum Creek is not proposing a LHVTL, none of the data requirements are applicable and an exemption is not needed.

¹ This is consistent with the Commission's October 16, 2008 *Order Granting Exemption, Approving Notice Plan as Modified and Granting Variance* in Docket No. IP6687/CN-08-951 which determined that a notice plan was required for an 11-mile, 230-kV transmission line proposed to interconnect a 201 MW generation project. However, no exemptions regarding Minnesota Rules 7849.0260 were granted and the subsequent CN proceeding did not require information regarding alternatives to the transmission facility.

8. *7849.0260 (C) 5: Details Regarding Alternatives*

Although the Applicant requests an exemption to this rule, as discussed above, Minnesota Rules 7849.0260 requires data be provided regarding applications for an LHVTL. Since Plum Creek is not proposing a LHVTL, none of the data requirements are applicable and an exemption is not needed.

9. *7849.0260 (D): Map of Applicant's System*

Although the Applicant requests an exemption to this rule, as discussed above, Minnesota Rules 7849.0260 requires data be provided regarding applications for an LHVTL. Since Plum Creek is not proposing a LHVTL, none of the data requirements are applicable and an exemption is not needed.

10. *7849.0270: Peak Demand and Annual Consumption Forecast*

This rule requires an applicant to provide system forecast data. Plum Creek requests an exemption because it does not have a service area or a system. Because the Applicant also has not identified a buyer yet, Plum Creek cannot reasonably forecast peak demand for the buyer's service area. Plum Creek proposes to submit regional demand, consumption, and capacity data to demonstrate the need for independently produced renewable energy. The Department agrees that Plum Creek's proposed alternative data is relevant. Therefore, the Department recommends that the Commission approve the requested exemption and require Plum Creek to provide data regarding regional demand, consumption, and capacity.

11. *7849.0280: System Capacity*

This rule requires an applicant to provide information regarding the ability of its existing system to meet the demand for electrical energy forecast in response to part 7849.0270. Again, Plum Creek does not have a system but proposes to submit regional demand, consumption and capacity data. The Department recommends that the Commission approve the requested exemption and require Plum Creek to provide data regarding regional demand, consumption and capacity.

12. *7849.0290: Conservation Programs*

This rule requires an applicant to provide information related to conservation programs. Plum Creek requests an exemption to this rule because Plum Creek is not a regulated utility, has no retail customers, and plans to sell the project's output into the wholesale market. For these reasons and the fact that the project is a renewable energy project, conservation programs could not serve as an alternative to the project.

The Department agrees that conservation cannot meet a need for renewable energy and recommends that the Commission approve the requested exemption.

13. 7849.0300: Consequences of Delay—System

This rule requires an applicant to provide information regarding anticipated consequences to its system, neighboring systems, and the power pool should the proposed facility be delayed one, two, and three years, or postponed indefinitely. Plum Creek requests an exemption because the Company does not have a system, and requests to instead provide data on the consequences of delay to its potential customers and the region. The Department recommends that the Commission approve the requested exemption and require Plum Creek to provide data regarding the consequences of delay on its potential customers and the region.

14. 7849.0330: Alternative Involving an LHVTL

This rule requires an applicant to provide data for each alternative that would involve construction of an LHVTL. Regarding this requirement Plum Creek states that “other transmission facilities are not true alternatives to the proposed Plum Creek generation-tie line, since the purpose of the generation-tie line is to deliver the output from the facility to increase the supply of renewable energy to the purchaser to meet its renewable, clean energy, or sustainability obligations.” The Department agrees with Plum Creek’s analysis and recommends that the Commission grant the proposed exemption.

15. 7849.0340: The Alternative of No Facility

This rule requires an applicant to provide information regarding the impact of the alternative of no facility on the existing system. Plum Creek requests an exemption because it does not have a system. The Department recommends that the Commission approve the requested exemption and allow Plum Creek to provide data regarding the impact on the wholesale market of the “no facility” alternative as the Applicant proposes.

III. DEPARTMENT RECOMMENDATION

The Department recommends that the Commission determine that the following data requirements are not applicable:

- 7849.0260 (A) 3 and (C) 6: Line Loss Data;
- 7849.0260 (B) 1: Alternatives to the Transmission Line;
- 7849.0260 (C) 5: Details Regarding Alternatives; and

- 7849.0260 (D): Map of Applicant's System.

The Department recommends that the Commission approve the following exemptions conditioned upon Plum Creek alternative data:

- 7849.0250 (B) 4: Description of Certain Alternatives;
- 7849.0250 (D): Map of Applicant's System;
- 7849.0270: Peak Demand and Annual Consumption Forecast;
- 7849.0280: System Capacity;
- 7849.0300: Consequences of Delay—System; and
- 7849.0340: The Alternative of No Facility.

The Department recommends that the Commission approve the following exemptions as proposed:

- 7849.0240, subp. 2 (B): Promotional Activities;
- 7849.0250 (B) 1, 2, 3, and 5: Description of Certain Alternatives;
- 7849.0250 (C) 1 to 6, 8 and 9: Availability of Alternatives to the Facility;
- 7849.0250 (C) 7: Effect of Project on Rates System-wide;
- 7849.0290: Conservation Programs; and
- 7849.0330: Alternatives Involving an LHVTL.

/jl

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Comments**

Docket No. IP6997/CN-18-699

Dated this 6th day of December 2018

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Lisa	Agrimonti	lagrimonti@fredlaw.com	Fredrikson & Byron, P.A.	200 South Sixth Street Suite 4000 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_18-699_Official Service List
Christina	Brusven	cbrusven@fredlaw.com	Fredrikson Byron	200 S 6th St Ste 4000 Minneapolis, MN 554021425	Electronic Service	No	OFF_SL_18-699_Official Service List
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1800 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_18-699_Official Service List
Ian	Dobson	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_18-699_Official Service List
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_18-699_Official Service List
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_18-699_Official Service List