

April 20, 2017

Via Electronic Filing

Mr. Daniel Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, MN 55101-2147

Re: *In the Matter of the Application of Dodge County Wind, LLC for a Certificate of Need for the 200 MW Large Wind Energy Conversion System and an associated 345 KV Transmission Line in Dodge County, Minnesota.*
Docket No. IP6981/CN-17-306

Dear Mr. Wolf:

Pursuant to Minn. R. 7849.0200, subp. 6, Dodge County Wind LLC respectfully submits this Petition for Exemption from Certain Certificate of Need Application Requirements. As discussed herein, the requested exemptions are similar to those exemptions that have been routinely granted to other independent power producers developing large wind energy conversion systems.

Please do not hesitate to contact me with any questions or concerns.

Sincerely,

/s/ Brian Meloy

Brian Meloy

**STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION**

In the Matter of the Application of Dodge)
County Wind, LLC for a Certificate of)
Need for the 200 MW large wind energy)
conversion system and an associated 345)
kV Transmission Line in Dodge County)

Docket No. IP6981/CN-17-306

**PETITION FOR EXEMPTION FROM CERTAIN CERTIFICATE OF NEED
APPLICATION REQUIREMENTS OF DODGE COUNTY WIND, LLC**

Pursuant to Minn. R. 7849.0200, subp. 6, Dodge County Wind, LLC (“Dodge County Wind”), respectfully submits this Petition for Exemption from Certain Certificate of Need Application Requirements (“Petition”) to the Minnesota Public Utilities Commission (“Commission”). Dodge County Wind respectfully requests that the Commission grant exemptions from certain Certificate of Need (“CON”) information requirements not applicable to independent power producers (“IPPs”) developing large wind energy conversion systems (“LWECS”) and a generation-tie line that is also a Large High Voltage Transmission Line (“LHVTL”).

I. PETITIONER

Dodge County Wind is an IPP and an indirect wholly-owned subsidiary of NextEra Energy Resources, LLC (“NEER”). NEER is a national renewable energy marketing and development company that owns and operates over 19,000 megawatts (“MW”) of electric generating capacity in 25 states and Canada. NEER also has several wind facilities currently in

operation in Minnesota, including the Buffalo Ridge, Lake Benton II and Mower County wind facilities.

Dodge County Wind will develop, own and operate a 200 MW LWECS to be located in Dodge County. The project will be connected to the electric grid at the Southern Minnesota Municipal Power Agency Byron Substation by an approximately 23-mile 345 kilovolt (“kV”) LHVTL generation-tie line that is located in Dodge and Olmsted Counties. Dodge County Wind has secured an in-state purchaser for the energy.

The Dodge County Wind LWECS facility and its associated generation-tie line both fall within the definition of a “large energy facility,” as defined by Minn. Stat. § 216B.2421, subd. 2. Therefore, pursuant to Minn. Stat. § 216B.243, a CON is required for the wind facility and the generation-tie line. On April 20, 2017, pursuant to Minn. R. 7829.2550, Dodge County filed its 90-day Notice Plan for its CON. Consistent with a past Commission decision involving a wind facility and its generation-tie line that require a CON,¹ Dodge County Wind plans to submit a consolidated application for a CON.²

II. REQUEST FOR EXEMPTIONS

The Commission’s CON rules set forth in Chapter 7849 of the Minnesota Rules apply to a broad range of projects. These rules in some respects focus on a determination of need for utility-built generation, rather than IPP generation. With this recognition, the rules authorize an applicant, such as Dodge County Wind, to request exemptions from filing requirements that are not applicable to its project. Specifically, Minn. R. 7849.0200, subp. 6 provides that:

¹ *In the Matter of the Application of Noble Flat Hill Windpark I, LLC for a Certificate of Need for a Large Energy Facility, a 201 MW Large Wind Energy Conversion System and Associated Facilities in Clay County*, Docket No. IP-6687/CN-08-951, Order Granting Exemption, Approving Notice Plan As Modified And Granting Variance at 1 (October 16, 2008).

² The Dodge County Wind Project will also require a Site Permit and Route Permit, and Dodge County Wind plans to file the applications for the Site Permit and Route Permit at the same time as it files its application for a CON.

Before submitting an application, a person is exempted from any data requirement of this chapter 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 commission shall respond in writing to a request for exemption within 30 days of receipt and include the reasons for the decision. The commission shall file a statement of exemptions granted and reasons for granting them before beginning the hearing.

Pursuant to this rule, Dodge County Wind requests exemptions from certain CON filing requirements that are inapplicable to its project. As discussed below, certain filing requirements are inapplicable to Dodge County Wind for the following reasons: (i) they are specific to traditional utilities and inapplicable to an IPP, such as Dodge County Wind, seeking a need determination; (ii) they pertain to the consideration of nonrenewable alternatives and the Dodge County Wind project is a renewable energy project intended to assist the purchaser achieve its renewable energy needs; and (iii) they seek data that does not exist with respect to the Dodge County Wind Project or data that can be satisfied by submitting documents/information other than those sought. Accordingly, Dodge County Wind requests that it be exempt from the following CON filing requirements:³ (i) Minn. R. 7849.0240, subp. 2 (B); (ii) Minn. R.

³ The Commission has granted similar exemption requests for other IPP wind facilities, and, also, for a non-vertically integrated transmission line developer. *See e.g., In the Matter of the Application of Blazing Star Wind Farm, LLC for a Certificate of Need for the 200 Megawatt Blazing Star Wind Project in Lincoln County, Minnesota* Docket No. IP-6961/CN-16-215 at 1 (April 28, 2016) (“Blazing Star Exemption Order”); *In the Matter of the Application of Red Pine Wind Project, LLC for a Certificate of Need for the 200 MW Red Pine Wind Project and Associated Facilities in Lincoln and Lyon Counties*, Docket No. IP-6959/CN-16-140 at 1 (March 25, 2016); *In the Matter of the Application of Freeborn Wind Energy LLC for a Certificate of Need for the 200 MW Freeborn Wind Project in Freeborn County, Minnesota*, Docket No. IP-6946/CN-15-343, Order Granting Freeborn Wind Energy LLC’s Exemption Request (June 1, 2015) ; *In the Matter of the Application of ITC Midwest LLC for a Certificate of Need for the Minnesota-Iowa 345 kV Transmission Line Project in Jackson, Martin, and Faribault Counties, Minnesota*, Docket No. ET-6675/CN-12-1053, Order Granting ITC Midwest LLC’s Requested Exemptions (February 8, 2013) (the “ITC Exemption Order”); *In the Matter of the Application of EDF Renewable Energy for a Certificate of Need for the 100 MW Stoneray Wind Project in Pipestone and Murray Counties, Minnesota*, Docket No. IP6646/CN-13-193, Order (Apr. 29, 2013); *In the Matter of the Application of a Joint Request of Black Oak Wind, LLC and Getty Wind, LLC for a Determination Regarding Whether a Certificate of Need is Required for Two Large Wind Conversion Systems in Stearns County, Minnesota*, Docket No. IP6853, 6866/CN-11-471, Order (Aug. 22, 2011); *In the Matter of Ellerth Wind LLC’s Request for a Variance and Exemption from Certain*

7849.0250 (B) 1-5; (iii) Minn. R. 7849.0250 (C) 1 to 6, 8 and 9; (iv) Minn. R. 7849.0250 (C) 7; (v) Minn. R. 7849.0250 (D); (vi) Minn. R. 7849.0260 (A) 3 and (C) 6; (vii) Minn. R. 7849.0269 (B); (viii) Minn. R. 7849.0260 (C) 1, 3, 4, 5, 6, 7; (ix) Minn. R. 7849.0260 (D); (x) Minn. R. 7849.0270; (xi) Minn. R. 7849.0280; (xii) Minn. R. 7849.0290; (xiii) Minn. R. 7849.0300; (ixv) Minn. R. 7849.0330; and (xv) Minn. R. 7849.0340.

A. Promotional Activities (Minn. R. 7849.0240, subp. 2 (B))

Under Minn. Rule 7849.0240, subp. 2 (B), an application for a CON is required to include “. . . an explanation of the relationship of the proposed facility to . . . promotional activities that may have given rise to the demand for the facility.” In the past, “the Commission has granted this exemption to other IPPs because these companies do not have captive retail customers and there is no authorized rate of return to consider.”⁴ Similarly, Dodge County Wind

Certificate of Need Application Content Requirements, Docket No. IP-6855/CN-11-112, Order (Apr. 4, 2011); *In the Matter of a Petition for a Certificate of Need for a 101 MW Wind Farm and Related 115 kV Transmission Line in Rock County, MN*, Docket No. ET6838/CN-10-80, Order (May 14, 2010); *In the Matter of Prairie Wind Energy, LLC’s Exemption and Waiver Request*, Docket No. IP6844/CN-10-429, Order (June 18, 2010); *In the Matter of the Application of Pleasant Valley Wind, LLC for a Certificate of Need for the 299.5 MW Pleasant Valley Project in Dodge, Olmsted, and Mower Counties*, Docket No. IP6828/CN- 09-937, Order approving exemption requests as recommended by the Office of Energy Security in comments dated September 8, 2009 (Oct. 8, 2009); *In the Matter of the Application of Goodhue Wind, LLC for a Certificate of Need for a 78 MW Wind Project and Associated Facilities in Goodhue County*, Docket No. IP6701/CN-09-1186, Order Finding Application Complete and Initiating Informal Review Process (Dec. 30, 2009); *In the Matter of the Application of Paynesville Wind, LLC for a Certificate of Need for a 95 MW Large Wind Energy Conversion System in Stearns County*, Docket No. IP6830/CN-09-1110, Order approving Paynesville’s request for exemption from the required data as identified in the Petition (Nov. 30, 2009); *In the Matter of the Request of Heartland Wind, LLC for a Certificate of Need for the 150 MW Elm Creek II Wind Project in Jackson and Martin Counties*, Docket No. IP6728/CN-09471, Order approving the Company’s request for exemption from the required data as identified in the Petition (June 26, 2009); *In the Matter of the Application of EcoHarmony West Wind, LLC for a Certificate of Need for a 200 MW Wind Farm Project in Fillmore County in Southeastern Minnesota*, Docket No. IP6688/CN-08-961, Order Granting Exemption Requests (Oct. 10, 2008); *In the Matter of the Application of Wapsipinicon Wind for a Certificate of Need for a Large Energy Facility, a 105 MW Large Wind Energy Conversion System in Mower County, Minnesota*, Docket No. IP6670/CN-08-334, Order Granting Exemptions, Requiring Additional Filings and Establishing Procedures for Expedited Proceedings (May 12, 2008); *In the Matter of the Application of Elm Creek Wind, LLC, for a Certificate of Need for a Large Energy Facility, the Elm Creek Wind Project in Jackson and Martin Counties*, Docket No. IP6631/CN-07-789, Order Granting Exemptions (Aug. 1, 2007) (the “Elm Creek Exemption Order”); *In the Matter of the Application for a Certificate of Need for the Trimont Area Wind Farm*, Docket No. IP-6339/CN-03-1841, Order Granting Exemption Requests In Part, Permitting Expedited Filing, Accepting Application As Of Date Of Supplemental Filing, And Requesting Preparation Of Environmental Report (December 22, 2003).

⁴ Blazing Star Exemption Order, Recommendations of the Department of Commerce at 3.

does not intend to sell electricity directly to end-use customers, and, therefore, has not engaged in any promotional activity that “may have given rise to the demand” for the Dodge County Wind project’s electric output. As such, information related to such promotional activities does not exist. Consistent with past Commission decisions to grant an exemption from this requirement in similar circumstances,⁵ Dodge County Wind requests an exemption from Minn. R. 7849.0240, subp. 2(B).

B. Availability of Alternatives (Minn. R. 7849.0250 (B) 1-5).

Minn. R. 7849.0250(B) 1 through 5 requires a CON applicant to discuss the availability of alternatives to the facility, including: (i) purchased power; (ii) increased efficiency of existing facilities; (iii) new transmission lines; (iv) new generating facilities of a different size or using a different energy source; and (v) any reasonable combination of the items in 1-4. Dodge County Wind requests an exemption from information requirements 1, 2, 3 and 5 as they are not applicable to the Dodge County Wind Project. Consistent with Commission precedent, Dodge County also requests a partial exemption of requirement 4.

First, as for filing requirement 1, Dodge County Wind has secured an in-state purchaser for the full output of the project, and, therefore, consideration of a purchase power alternative is not applicable. Second, unlike a traditional public utility, Dodge County Wind has no existing facilities in Minnesota, and, therefore, the filing of information under filing requirement 2 on improving the efficiency of existing facilities is not applicable. Third, Dodge County Wind is not a developer or owner of transmission facilities other than the generation-tie line required to connect the project to the grid. Also, the development of new transmission facilities, beyond the generation-tie line, cannot substitute for the delivery of the output of the project over the

⁵ See, e.g., Blazing Star Exemption Order at 1.

associated generation-tie line. While Minnesota utilities that develop, own and operate transmission lines that from a reliability standpoint may in certain cases be substitutes for the need for generation, Dodge County Wind is not addressing a reliability issue. Therefore, the consideration of transmission lines as an alternative to the Dodge County Wind under filing requirement 3 is not applicable. Fourth, Dodge County Wind should be granted a partial exemption from filing requirement 4. Specifically, Dodge County requests that it not be required to address non-renewable alternatives to the Dodge County Wind project, because non-renewable alternatives cannot fulfill the proposed Project's purpose of increasing the supply of renewable generation to the purchaser. The Commission has previously granted this partial exemption to a renewable energy project agreeing that "[n]on-renewable alternatives could not fulfill the proposed Project's purpose of increasing the supply of renewable generation as set out by the renewable energy Minnesota Renewable Energy Standard statute, Minn. Stat. § 216B.1691."⁶ The same is true with respect to the Dodge County Wind project. However, Dodge County Wind will discuss renewable alternatives to the Dodge County Wind Project in its CON application. Fifth, given that filing requirements 1, 2 and 3 are wholly inapplicable and requirement 4 only partially applicable, Dodge County Wind requests an exemption from requirement 5 that requires a filing on any reasonable combination of requirements 1 through 4.

C. Details Regarding Alternatives (Minn. R. 7849.0250 (C) 1-6, 8 and 9).

Minn. R. 7849.0250 (C) 1-9 requires a CON applicant to provide a description of alternatives that could provide electric power at the asserted level of need. As explained above, nonrenewable alternatives cannot fulfill the proposed project's purpose of increasing the supply of renewable generation. Therefore, consistent with the request for a partial exemption of Minn.

⁶ See, e.g., Blazing Star Exemption Order at 1; Elm Creek Exemption Order at 4.

R. 7849.0250 (B) 4 and Commission precedent,⁷ Dodge County Wind proposes to address Minn. R. 7849.0250 (C) 1-6, 8 and 9 for renewable alternatives it identifies that could provide electric power at the asserted level of need.

D. Effect on Rates System-Wide (Minn. R. 7849.0250 (C) 7).

Minn. R. 7849.0250 (C) 7 requires a CON applicant to estimate the Project’s “effect on rates system-wide and in Minnesota, assuming a test year beginning with the proposed in-service date.” As an IPP, Dodge County Wind does not operate a “system.” As such, the required data is neither available to Dodge County Wind nor necessary to determine need for the Project. Thus, consistent with past Commission rulings,⁸ Dodge County Wind requests an exemption from filing the information sought in Minn. R. 7849.0250 (C) 7.

E. Map of Applicant’s System (Minn. R. 7849.0250 (D)).

Minn. R. 7849.0250 (D) requires a CON applicant to include a map showing the applicant’s system. Given that Dodge County Wind is an IPP and does not have a “system” or Commission-approved customer service area, the information needed to develop a map does not exist and is unnecessary to determine the need. Alternatively, consistent with past Commission decisions on this Rule,⁹ Dodge County Wind proposes to file a map showing the site of the Dodge County Wind project, including the generation-tie line and its proposed interconnection to the transmission grid.

F. Details Regarding Alternatives To (Minn. R. 7849.0260 (A) 3 and (C) 6)

Minn. R. 7849.0260 (A) 3 requires the a LHVTL CON applicant provide information on “. . . the expected losses under projected maximum loading and under projected average loading

⁷ See, e.g., Blazing Star Exception Order at 1.

⁸ *Id.*

⁹ *Id.*

in the length of the transmission line and at the terminals or substations.” Similarly, Minn. R. 7849.0260 (C) 6 requires that an applicant provide a discussion of the Project’s “. . . efficiency, expressed for a transmission facility as the estimated losses under projected maximum loading and under projected average loading in the length of the transmission line and at the terminals or substations, or expressed for a generating facility as the estimated heat rate. . . .” Unlike a traditional utility transmission line, the LHVTL associated with the Dodge County Wind is a generation-tie line that has the sole purpose of delivering the output of the wind facility to the transmission grid. As such, the generation-tie line is a radial line that will not impact losses on the transmission system as would a more typical utility-LHVTL that is part of the integrated transmission system. Therefore, filing information under Minn. R. 7849.0260 A (3) and (C) 6 is not applicable to a radial generation-tie line, and, thus, it is appropriate to exempt Dodge County from these filing requirements. The requested exemption is also consistent with Commission ruling in the ITC CON proceeding.¹⁰

G. Alternatives to LHVTL (Minn. R. 7849.0260 (B) 1)

Minn. R. 7849.0260 (B) (1) requires a discussion of new generation alternatives to the LHVTL. The Dodge County Wind generation-tie line is proposed to connect the Dodge County wind plant to the transmission grid, and, thus, there is no new generation alternative that is a true substitute for the proposed generation-tie line. Unlike a traditional utility that is adding a LHVTL for purposes of addressing system reliability or congestion and a new generation resource may be an alternative, the Dodge County Wind generation-tie is not being added for purposes of addressing system reliability or congestion like a utility transmission line that is part

¹⁰ ITC Exemption Order at 1-2.

of the integrated transmission system. Therefore, Dodge County Wind requests an exemption from the filing requirements in Minn. R. 7849.0260 (B) 1.

H. Details Regarding Alternatives (Minn. R. 7849.0260 (C) 5).

Minn. R. 7849.0260 (C) 5 requires an applicant to estimate its proposed project’s “effect on rates systemwide and in Minnesota, assuming a test year beginning with the proposed in-service date.” Dodge County Wind requests an exemption from this requirement because it is not a Minnesota public utility whose rates are regulated by the Commission. Rather, as an IPP providing its electrical output to a single purchaser, Dodge County Wind cannot derive a systemwide rate effect, nor do so for the entirety of the State of Minnesota. Exemption of this filing requirement is also supported by the Commission’s ruling in ITC.¹¹

I. Map of Applicant’s System (Minn. R. 7849.0260 (D)).

Minn. R. 7849.0260 (D) requires a LHVTL CON applicant to include a map showing the applicant’s system or load center to be served by the proposed transmission line. As previously discussed, Dodge County Wind is an IPP and does not have a “system” or Commission-approved customer service area. Therefore, such information does not exist and is unnecessary to determine the need for the generation-tie line. Alternatively, consistent with the discussion in Section II E and Commission precedent,¹² Dodge County Wind proposes to submit a map showing its LHVTL and how it connects to the grid.

J. Peak Demand and Annual Consumption Forecast (Minn. R. 7849.0270).

Minn. R. 7849.0270 requires an applicant to provide “data concerning peak demand and annual electrical consumption within the applicant’s service area and system. . . .” Dodge County Wind requests an exemption from this requirement for the wind project and the

¹¹ ITC Exemption Order at 1-2

¹² *Id.*

generation-tie line on the grounds that it does not own a “system” or maintain a “service area” within the meaning of the Rule. Notwithstanding the exemption, consistent with Commission rules, Dodge County will provide a general overview of purchaser’s system and future renewable resource needs.¹³

K. System Capacity (Minn. R. 7849.0280).

The purpose of Minn. R. 7849.0280 is for the CON applicant to address “. . . the ability of its existing system to meet the demand for electrical energy forecast in response to part 7849.0270 and the extent to which the proposed facility will increase this capability.” As explained, Dodge County Wind does not have a “system” within the meaning of the Rule, and, therefore, the requested information is inapplicable. Thus, Dodge County Wind requests an exemption from the filing requirements in Minn. R. 7849.0280. Notwithstanding the exemption, similar to Section II J, Dodge County will provide a general overview of the purchaser’s system and future renewable resource needs.¹⁴

L. Conservation Programs (Minn. R. 7849.0290).

In accordance with Minn. R. 7849.0290, a CON applicant is required to provide information related to conservation programs, including information on the programs an applicant has considered, description of the major accomplishments, costs, and a discussion of their expected effects in reducing the need for new generation and transmission facilities. This rule is specifically tailored for utilities and is not applicable to an IPP, like Dodge County Wind. Dodge County Wind is not a utility, and does not have a system or retail customers, nor does Dodge County Wind maintain a conservation program. In addition, only an increase in the amount of energy derived from eligible energy technologies will enable the purchaser to meet

¹³ See, e.g., Blazing Star Exemption Order at 1.

¹⁴ *Id.*

Minnesota’s renewable obligations. Consistent with the Commission’s decisions to grant this exemption to other IPPs,¹⁵ Dodge County Wind respectfully requests that an exemption from this requirement be granted.

M. Consequences of Delay (Minn. R. 7849.0300).

Dodge County Wind requests an exemption from the requirement in Minn. R. 7849.0300 that it analyze the consequences of delay since this Rule is written for utilities that have a system and can impact other systems. Dodge County Wind does not have a system as contemplated by this Rule. As a result, consistent with Commission rulings,¹⁶ Dodge County Wind submits that the required information is not necessary to determine need.

N. Facility Information for LHVTL Alternatives (Minn. R. 7849.0330).

Dodge County Wind requests an exemption from the filing requirement in Minn. R. 7849.0330 that it provide information related to transmission line alternatives. As explained in Section II G, other transmission facilities are not true alternatives to the proposed Dodge County 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 energy obligations. Therefore, consistent with Commission precedent,¹⁷ an exemption from this filing information requirement is appropriate.

O. The Alternative of No Facility (Minn. R. 7849.0340).

Minn. R. 7849.0340 requires for the “. . . three levels of demand specified in part 7849.0300” that a CON applicant “. . . provide the following information for the alternative of no facility . . . including “. . . a description of the expected operation of existing and

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

committed generating and transmission facilities. . . .” As already explained, Minn. R. 7849.0300 is not applicable because Dodge County Wind does not have a system that can impact other systems. Also, it has been explained that Dodge County Wind does not have any existing generating and transmission facilities. Therefore, Dodge County Wind cannot provide information requested by Minn. R. 7849.0340, and, thus, consistent with Commission precedent,¹⁸ requests that it be exempt from these filing requirements.

III. CONCLUSION

The requested exemptions from certain CON filing requirements are consistent with well-established Commission precedent,¹⁹ and, therefore, for the reasons stated above, Dodge County Wind respectfully requests that the Commission grant its requested exemptions.

Dated: April 20, 2017

Respectfully submitted,

/s/ *Brian M. Meloy*

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¹⁸ *Id.*

¹⁹ *See infra*, footnote 3.

**STATE OF MINNESOTA
BEFORE THE
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In the Matter of the Application)
of Dodge County Wind, LLC for a)
Certificate of Need for the Dodge)
County Wind Project and Associated)
Facilities in Dodge County, Minnesota)

Docket No. IP6981/CN-17-306

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the **Petition for Exemption from Certain Certificate of Need Application Requirements of Dodge County Wind, LLC** has been served today by e-mail and/or U.S. Mail to the following:

| NAME | EMAIL | ADDRESS | SERVICE |
|-----------------|--|---|------------|
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Dated this 20th day of April 2017

/s/ Susan A. Hartinger
SUSAN A. HARTINGER