

Revised decision Options Big Bend Wind and Red Rock Solar 2/3/2021

Dockets IP7013/CN-19-408, WS-19-619, TL-19-621 & IP7014/CN-19-486, IP7014/GS-19-620

A. Application Completeness (Big Bend Wind & Red Rock Solar)

1. Accept the Big Bend Wind Certificate of Need, Site Permit and Route Permit Applications as substantially complete.
2. Accept the Red Rock Solar Certificate of Need and Site Permit Applications as substantially complete.
3. Find one or more of the applications incomplete and identify the deficiencies to be addressed.
4. Take some other action deemed more appropriate.

B. Certificate of Need Review Process (Big Bend Wind & Red Rock Solar)

1. Direct that the Big Bend Wind and Red Rock Solar Certificate of Need Applications be reviewed using the informal review process under Minn. Rule 7829.1200 and request preparation of findings of fact, conclusions of law and recommendations.
2. Direct that the Big Bend Wind and Red Rock Solar Certificate of Need Applications be referred to the Office of Administrative Hearings for a contested case proceeding.
3. Take some other action deemed more appropriate

C. Big Bend Wind Site Permit Application Review Process

1. Direct that the Big Bend Wind Site Permit Application be referred to the Office of Administrative Hearings for a contested case proceeding for statutory and rule compliance, including but not limited to impacts to Jeffers Petroglyphs Site. (*As proposed by staff*)
2. Direct that the Big Bend Wind Site Permit Application be referred to the Office of Administrative Hearings for a contested case proceeding to examine only the potential impacts of the project, proposed mitigative measures, and any adverse environmental effects that cannot be avoided, related to cultural and

archaeological impacts, including impacts to the Jeffers Petroglyph Site. *(As proposed by applicant)*

3. Take some other action deemed more appropriate.

D. Big Bend Wind Transmission Line Route Permit Application Review Process

1. Direct that the Big Bend Wind Route Permit Application be referred to the Office of Administrative Hearings for a contested case proceeding.
2. Direct that the Big Bend Route Permit Application be referred to the Office of Administrative Hearings for a contested case proceeding. *(As recommended by EERA – eminent domain)*
3. Direct that the Big Bend Wind Route Permit Application be referred to the Office of Administrative Hearings for review under the alternative permitting process defined in Minn. Stat. § 216E.04 and Minn. R. 7850.2800 to 7850.3900 and request preparation of findings of fact, conclusions of law and recommendations, including and modifications and conditions to the route permit. *(summary process)*
4. Take some other action deemed more appropriate.

E. Red Rock Solar Site Permit Application Review Process

1. Direct that the Red Rock Solar Site Permit Application be referred to the Office of Administrative Hearings for a contested case proceeding.
2. Direct that the Red Rock Solar Site Permit be referred to the Office of Administrative Hearings for review under the alternative permitting process defined in Minn. Stat. § 216E.04 and Minn. R. 7850.2800 to 7850.3900 and request preparation of findings of fact, conclusions of law, and recommendations, including any modifications and conditions to the site permit of a preferred site and permit conditions. *(summary process)*
3. Take some other action deemed more appropriate.

F. Joint Proceedings (Big Bend Wind & Red Rock Solar)

1. Approve joint public meetings, joint public hearings, and combined environmental review of the Big Bend Wind Project's Certificate of Need, Site

Permit, and Route Permit Applications and the Red Rock Solar Project's Certificate of Need and Site Permit Applications to the extent practicable, including the preparation of an Environmental Assessment in lieu of an Environmental Report.

2. Take some other action deemed more appropriate.

G. Advisory Task Force (Big Bend Wind & Red Rock Solar)

1. Authorize the DOC EERA to establish an advisory task force and develop a proposed structure and charge for the task force.
2. Take no action on an advisory task force at this time.
3. Take some other action deemed appropriate.

H. Additional Procedural Guidance (Big Bend Wind & Red Rock Solar)

Include one or more of the following items in the referral order(s) to OAH:

1. Require a prehearing conference at a date, time, and place to be set by the Administrative Law Judge in consultation with Commission staff.
2. Request that the Administrative Law Judge prepare a report setting forth findings, conclusions, and recommendations on the merits of the proposed project, applying the routing criteria set forth in statute and rule; and provide comments and recommendations, if any, on the conditions and provisions of a route permit.
3. If the certificate of need application is referred to OAH for contested case hearing, request that the Administrative Law Judge prepare a report setting forth findings, conclusions, and recommendations on the merits of the proposed project, applying the certificate of need criteria set forth in statute and rule.
4. If the LWECS site permit application is referred to OAH for contested case hearing, request that the Administrative Law Judge prepare a report setting forth findings, conclusions, and recommendations on the merits of the proposed project, applying the siting criteria set forth in statute and rule; and provide comments and recommendations, if any, on the conditions and provisions of a site permit.
5. Take some other action deemed more appropriate.

6. Authorize the Administrative Law Judge and Commission staff to facilitate joint proceedings including the certificate of need and site permit applications for both the Big Bend Wind and Red Rock Solar projects to the extent practical.

I. Administrative Guidance (Big Bend Wind & Red Rock Solar)

Include one or more of the following items in the referral order(s) to OAH:

1. Delegate administrative authority, including timing issues, to the Executive Secretary.
2. Identify Bret Eknes as the Commission's Public Advisor who will facilitate citizen participation in the process.
3. Direct staff to contact state agency representatives regarding their participation in the review proceeding.
4. Request that the Department of Commerce continue to study the issues and indicate during the hearing process through testimony or comment its position on the reasonableness of granting a certificate of need, site permit, and a route permit.
5. Require the Applicant to facilitate in every reasonable way the continued examination of the issues.
6. Require the Applicant to place a print or electronic copy of the certificate of need, site permit, and route permit applications in the government centers of each of the three counties where the proposed project is located.
7. Direct the Applicant to work with Commission staff to arrange for publication of the notices related to public information meetings and public hearings in newspapers of general circulation under the timelines prescribed in rule and statute, that such notice be in the form of visible display ads, and that proof of publication be obtained from the newspapers selected.
8. Take some other action deemed more appropriate.

J. Intervenor Status (Big Bend Wind)

1. Grant the Minnesota Historical Society's petition to intervene.
2. Ask the Administrative Law Judge to address the issue of intervention.

3. Take some other action deemed more appropriate.

K. Rule Variances (Big Bend Wind & Red Rock Solar)

1. Vary Minn. R. 7849.0200, subp. 5, and extend the 30-day time frame for a Commission decision on the completeness of the certificate of need applications for the Big Bend Wind and Red Rock Solar projects.
2. Vary Minn. R. 7854.0600, subp. 1, and extend the 30-day time frame for Commission decision on Big Bend LWECS site permit application completeness.
3. Vary Minn. R. 7854.0800, subp. 1, and extend the 45-day time frame for Commission decision on the issuance of a draft site permit.
4. Take some other action deemed more appropriate.

L. Review Process Timeline

1. Request that the ALJ establish a schedule for the informal process and contested case hearing that generally adheres to the timelines suggested by DOC EERA staff as provided in Table 3 of its December 15, 2020 Comments and Recommendations.
2. Take some other action deemed more appropriate.

Staff recommendation – A1, A2, B1, C1, D3, E2, F1, G2, H1,2,4,6, I(1-7), J1, K(1-3), L1