

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben	Chair
Valerie Means	Commissioner
Matthew Schuerger	Commissioner
Joseph K. Sullivan	Commissioner
John A. Tuma	Commissioner

In the Matter of the Application of Walleye Wind, LLC for a Certificate of Need for the up to 110.8 MW Walleye Wind Project in Rock County, Minnesota

ISSUE DATE: October 20, 2020  
DOCKET NO. IP-7026/CN-20-269

In the Matter of the Application of Walleye Wind, LLC for a Site Permit for the up to 110.8 MW Walleye Wind Project in Rock County, Minnesota

DOCKET NO. IP-7026/WS-20-384  
  
ORDER ACCEPTING APPLICATIONS AS COMPLETE, ESTABLISHING REVIEW PROCEDURES, AND GRANTING VARIANCES

**PROCEDURAL HISTORY**

**I. Certificate of Need Application**

On February 13, 2020, Walleye Wind, LLC (Walleye Wind), a subsidiary of NextEra Energy Resources, LLC, filed a request for an exemption to certain data requirements applicable to a certificate of need application.

On March 3, 2020, the Department of Commerce, Division of Energy Resources (the Department) recommended that the Commission approve the exemption request with conditions; and on March 31, the applicant filed comments agreeing to the Department’s recommended conditions.

On April 8, the Commission approved Walleye Wind’s exemption request.

On July 9, 2020, Walleye Wind filed a certificate of need application to construct a large wind energy conversion system (LWECS) of up to 110.8 megawatts (MW) in Rock County (the project).

On July 23, 2020, the Department filed comments recommending that the applicant file the following additional information: a clarification of the nominal generating capacity of the facility; a discussion of the facility’s, and alternatives’, total cost in current dollars per kilowatt hour; and an explanation of how the facility will aid fulfillment of Minnesota Municipal Power Agency’s renewable energy standards requirements.

On August 3, 2020, Walleye Wind filed reply comments in response to the Department's request.

On July 31, 2020, the Department filed reply comments recommending that the Commission find the application complete.

## **II. Site Permit Application**

On July 9, 2020, Walleye Wind filed a site permit application for the project.

On July 31, 2020, the Department of Commerce, Energy, Environmental Review and Analysis staff (the EERA) filed comments recommending that the Commission find the application substantially complete and requesting that Walleye Wind file a clarification on the proposed turbine layout. The EERA also recommended that the Commission: (1) extend the deadline for making a determination on whether to issue a draft site permit for the project, and (2) direct Walleye Wind to file updated information on the status of wind rights prior to the Commission's consideration of a draft site permit and prior to notice of the public information and scoping meeting. Also on this date, the Department of Transportation (MnDOT) filed comments recommending that the applicant consider exploring an alternate location for Turbine 21.

Also on July 31, the Laborers' International Union of North America filed comments in support of finding both applications complete and stated that there were no contested issues of material fact relating to either application.

On August 3, 2020, Walleye Wind filed comments in response to the EERA's request for additional information and agreed to MnDOT's recommendation to explore relocating Turbine 21.

On August 27, 2020, the applications came before the Commission.

## **FINDINGS AND CONCLUSIONS**

### **I. The Proposed Project**

Walleye Wind has proposed to construct an LWECS of up to 110.8 MW in Rock County. The project would connect to an existing 345 kilovolt high-voltage transmission line that is owned and operated by Xcel Energy at its Rock County substation. The project would include no more than 40 wind turbines. Walleye Wind has entered into a power purchase agreement with Minnesota Municipal Power Agency for purchase of the entire output of the facility under a 30-year term.

### **II. Jurisdiction**

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." The proposed project meets the definition of a large energy facility under Minn. Stat. § 216B.2421, subd. 2 (1), which includes "any 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.” Walleye Wind therefore filed its certificate of need application under Minn. Stat. 216B.243 and Minn. R. 7849, which govern the Commission’s consideration of a certificate of need application for an LWECS.

In addition to the certificate of need requirements, a site permit is required from the Commission to construct an LWECS, which includes a facility of 5,000 kilowatts (kW) or more.<sup>1</sup> Walleye Wind therefore filed its site permit application under Minn. Stat. 216F and Minn. R. Ch. 7854, which govern the Commission’s consideration of a site permit application for an LWECS.

### **III. Application Completeness**

The Department reviewed the certificate of need application under Minn. R. 7849 to analyze whether it contained all required information. Based on its analysis, the Department recommended that the applicant file additional information, which the applicant subsequently filed. Based on the additional filing, the Department recommended that the Commission find the application complete and develop the record using the informal review process under Minn. R. 7829.1200.

The EERA reviewed the site permit application under Minn. R. 7854 to analyze whether it contained all required information. Based on its analysis, the EERA recommended that the applicant file additional information but that the Commission find the site permit application substantially complete. The applicant subsequently filed the requested information.

The Commission concurs with the analyses of the Department and the EERA and will therefore find the certificate of need and site permit applications complete. Further, the Commission will require Walleye Wind to file, 14 days prior to the public information and scoping meeting on the draft site permit and the Commission’s consideration of whether to issue a draft site permit, a status report on wind rights.

### **IV. Record Development**

To develop the record in the certificate of need proceeding, the Commission will authorize use of the informal review process under Minn. R. 7829.1200 and will authorize that a joint public hearing be held on the certificate of need and site permit applications.

In addition, the Commission will take the take the following administrative actions to facilitate record development:

- Require a prehearing conference at a date, time, and place to be set by the Administrative Law Judge in consultation with the applicant, the Department, and Commission staff.
- Direct that the certificate of need application be reviewed using the informal review process.

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<sup>1</sup> Minn. Stat. §§ 216F.01, subd. 2 and 216F.04. Further, Minn. Stat. § 216F.02 applies certain provisions of Minn. Stat. Ch. 216E to the consideration of an LWECS.

- Direct that a joint public hearing be held on the certificate of need and site permit applications.
- Delegate administrative authority over this case to the Executive Secretary.
- Designate Cezar Panait to act as the Public Advisor to facilitate public participation in the process.
- Request that the Department and EERA continue to study the issues and indicate during the hearing process its position on the reasonableness of granting a certificate of need.
- Require the applicant to facilitate in every reasonable way the continued examination of the issues by the Department, EERA, and Commission staff.
- Require the applicant to place a copy of the application (printed or compact disc) for review in at least one government center or public library near where the project is located.
- Direct Commission staff to work with the Department and EERA staff to arrange for the public hearing on the application.
- Direct the public advisor to electronically file the public comments received once the application is open for comment.

**V. Rule Variance**

Under Minn. R. 7829.3200, the Commission must vary its rules upon making the following findings:

- 1) enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- 2) granting the variance would not adversely affect the public interest; and
- 3) granting the variance would not conflict with standards imposed by law.

Under several rule provisions, the Commission is required to take action on the application within designated time periods. To ensure full record development on those matters, the Commission will vary the following rules under Minn. R. 7829.3200 to extend:

- the 30-day deadline under Minn. R. 7849.0200, subp. 5, for making a completeness determination on the certificate of need application.
- the 40-day deadline for the Commission and the Department to hold a public information and scoping meeting under Minn. R. 7849.1400, subp. 3.
- the deadline for issuing a draft site permit under Minn. R. 7854.0800, subp. 1.

- the four-month deadline under Minn. R. 7849.1400, subp. 9, for issuing the environmental report.

The Commission finds that enforcement of these rules would impose an excessive burden on those affected by the rules by jeopardizing the Commission's ability to fully consider comments and make an informed decision on application completeness, any alternatives to be examined in the environmental report, the draft site permit, and the environmental report. Under the circumstances, granting the variances would not adversely affect the public interest. Finally, granting the variances would not conflict with standards imposed by law, since the time frame is set by rule and not by statute.

### **ORDER**

1. The Commission hereby accepts the certificate of need application as complete.
2. The Commission hereby accepts the site permit application as complete.
3. Walleye Wind must file status reports on wind rights and interconnection 14 days prior to the public information meeting on the draft site permit template and the Commission's consideration of whether to issue a draft site permit.
4. The Commission hereby requires that a pre-hearing conference be held at a date, time, and place set by the Administrative Law Judge in consultation with the Applicant, the Department, and Commission staff.
5. The Commission hereby directs that the certificate of need application be reviewed using the informal review process.
6. The Commission hereby directs that the public hearing held on the certificate of need proceeding be held jointly with the public hearing held on the site permit application.
7. The Commission hereby takes the following administrative actions for developing the record:
  - a. Delegate administrative authority to the Executive Secretary;
  - b. Provide the name, telephone number, and email address of the staff person designated as the public advisor to facilitate public participation in the process;
  - c. Request that the Department continue to study the issues and indicate during the hearing process its position on the reasonableness of granting a certificate of need;
  - d. Require the applicant to facilitate in every reasonable way the continued examination of the issues raised by the Department and Commission staff;
  - e. Require the applicant to place a copy of the application (printed or compact disc) for review in at least one government center or public library near where the project is located;
  - f. Direct Commission staff to work with the Department to arrange for the public hearings on the application; and

- g. Direct the public advisor to e-file the public comments received once the application is open for comment.
8. The Commission hereby varies Minn. R. 7849.0200, subp. 5, to extend the 30-day deadline on the Commission's completeness determination.
  9. The Commission hereby varies Minn. R. 7849.1400, subp. 3, to extend the 40-day deadline for the Commission staff and the Department to hold a public information and scoping meeting.
  10. The Commission hereby varies Minn. R. 7854.0800, subp. 1, to extend the deadline on issuing a draft site permit for the project.
  11. The Commission hereby varies Minn. R. 7849.1400, subp. 9, to extend the deadline for issuing the environmental report.
  12. This order shall become effective immediately.

BY ORDER OF THE COMMISSION



Will Seuffert  
Executive Secretary



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## **CERTIFICATE OF SERVICE**

I, Nancy Jia, hereby certify that I have this day, served a true and correct copy of the following document to all persons at the addresses indicated below or on the attached list by electronic filing, electronic mail, courier, interoffice mail or by depositing the same enveloped with postage paid in the United States mail at St. Paul, Minnesota.

**Minnesota Public Utilities Commission  
ORDER ACCEPTING APPLICATIONS AS COMPLETE, ESTABLISHING  
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Docket Number

**IP-7026/CN-20-269  
IP-7026/WS-20-384**

Dated this 20<sup>th</sup> day of **October 2020**

/s/ Nancy Jia

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400  St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_20-269_Official
Kate	Fairman	kate.frantz@state.mn.us	Department of Natural Resources	Box 32 500 Lafayette Rd St. Paul, MN 551554032	Electronic Service	No	OFF_SL_20-269_Official
Annie	Felix Gerth	annie.felix-gerth@state.mn.us		Board of Water & Soil Resources 520 Lafayette Rd Saint Paul, MN 55155	Electronic Service	No	OFF_SL_20-269_Official
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_20-269_Official
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Ray	Kirsch	Raymond.Kirsch@state.mn.us	Department of Commerce	85 7th Place E Ste 500  St. Paul, MN 55101	Electronic Service	No	OFF_SL_20-269_Official
Karen	Kromar	karen.kromar@state.mn.us	MN Pollution Control Agency	520 Lafayette Rd  Saint Paul, MN 55155	Electronic Service	No	OFF_SL_20-269_Official
Susan	Medhaug	Susan.medhaug@state.mn.us	Department of Commerce	Suite 280, 85 Seventh Place East  St. Paul, MN 551012198	Electronic Service	No	OFF_SL_20-269_Official
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Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_20-269_Official
Stephan	Roos	stephan.roos@state.mn.us	MN Department of Agriculture	625 Robert St N  Saint Paul, MN 55155-2538	Electronic Service	No	OFF_SL_20-269_Official
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th PI E Ste 350  Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_20-269_Official
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Cynthia	Warzecha	cynthia.warzecha@state.mn.us	Minnesota Department of Natural Resources	500 Lafayette Road Box 25 St. Paul, Minnesota 55155-4040	Electronic Service	No	OFF_SL_20-269_Official

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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_20-384_Official
Lucas	Franco	lfranco@liunagroc.com	LIUNA	81 Little Canada Rd E  Little Canada, MN 55117	Electronic Service	No	OFF_SL_20-384_Official
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Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_20-384_Official
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