

Memo

Date: November 18, 2020

To: Will Seuffert – Minnesota Public Utilities Commission

From: Suzanne Steinhauer – Energy Environmental Review and Analysis

Subject: EERA Comments Decision Options (Commission Docket Number E999/M-17-123)

Introduction

Department of Commerce Energy Environmental Review and Analysis (EERA) staff appreciates Commission staff's very thorough review and analysis of recommendations and comments on the content and process of decommissioning plans provided in Commission staff's November 12, 2020, Briefing Paper. The briefing paper synthesizes information developed over the past three years. EERA staff supports many of Commission staff's recommendations as written, but believes that some of the recommendations are better addressed in guidance materials rather than through changes to the sample permit. EERA staff recommends the Commission consider requesting that EERA staff prepare a guidance document addressing the substance of Commission staff's recommendations.

EERA Comments and Recommendation

EERA staff's recommendations, and their consistency with Commission staff recommendations are discussed below. EERA staff has organized its recommendations by into topics related to procedure, changes to draft permit language, guidance material, and miscellaneous topics. Table 1 provides a summary comparison of EERA staff recommendations and Commission staff recommendations; recommendations that are inconsistent with Commission staff's recommendations are shaded, while areas of agreement are unshaded.

Procedural matters

In EERA staff's opinion, three items addressed in Commission staff's briefing paper require a timely decision from the Commission to provide the clarity that allows a systematic review of decommissioning plans to move forward:

- how review of older permits should be initiated (addressed in Commission staff's decision options D1 and D3),
- informing EERA of any requested changes to the proposed review schedule (addressed in Commission staff's decision option D3), and
- whether rate-regulated utilities need file decommissioning plans in the site permit docket (addressed in decision option C)

Although not as important to moving forward immediately, EERA staff has requested guidance from the Commission on how to address salvage value in the cost and surety calculations. EERA has

recommended that decommissioning plans include both gross and net estimates, but further guidance from the Commission would be appreciated (addressed in decision option B5).

Changes to draft permit language

In addition to the procedural matters addressed above, EERA staff also supports Commission staff recommended changes to the sample wind and solar permits in Commission staff's recommendations A1 (draft decommissioning plan included in permit application), C (financial surety for rate regulated utilities), D2a (additional milestones for decommissioning review), F1 (decommissioning completion report), and G7 (authorizing Commission staff to make technical corrections).

For the purposes of illustration only, EERA staff provides a draft of what the proposed Decommissioning Plan condition in a sample permit might look like with the above changes (changes are underlined).

Decommissioning Plan

The Permittee shall comply with the provisions of the most recently filed and accepted Decommissioning Plan. The initial version of the Decommissioning Plan was submitted for this project as part of the [Date] Site Permit Application. The Permittee shall file an updated decommissioning plan, incorporating comments and information from the permit issuance process and any updates associated with the final construction plans, with the Commission 14 days before the pre-construction meeting. The decommissioning plan shall be updated every five years following the commercial operation date and will be reviewed in the event of a permit transfer, permit amendment, and repowering request. Future updates to the decommissioning plan shall be filed as stand-alone documents containing a description of the project and information on how the project will be decommissioned.

The plan shall provide information identifying all surety and financial securities established for decommissioning and site restoration of the project in accordance with the requirements of Minn. R. 7854.0500, subp. 13. Projects owned by a rate regulated utilities need not provide additional financial surety beyond that identified in the utility's most recent Five-Year Depreciation Plan. The decommissioning plan shall provide an itemized breakdown of costs of decommissioning all project components, which shall include labor and equipment. The plan shall identify cost estimates for the removal of turbines, turbine foundations, underground collection cables, access roads, crane pads, substations, and other project components. The plan may also include anticipated costs for the replacement of turbines or repowering the project by upgrading equipment.

The Permittee shall also submit the decommissioning plan to the local unit of government having direct zoning authority over the area in which the project is located. The Permittee shall ensure that it carries out its obligations to provide for the resources necessary to fulfill its requirements to properly decommission the project at the appropriate time. The Commission may at any time request the Permittee to file a report with the Commission describing how the Permittee is fulfilling this obligation.

Upon completion of decommissioning activities, the Permittee shall file a report with the Commission describing decommissioning activities and identifying areas where activities deviated from the plan filed with the Commission.

Guidance Material

Many of Commission staff's recommendations propose changes to the sample wind and solar permits. Commission staff's proposed changes to the wind and solar sample permits incorporate recommendations from EERA staff and commenters from other agencies, developers, and local government officials. EERA recommends the Commission consider whether certain of Commission staff's recommendations would be better carried forward in EERA guidance rather than sample permits.

EERA staff regularly develops and issues guidance documents to provide a framework for applicants, permittees, agencies, and other interested parties to understand how EERA staff will review applications and compliance filings. For example:

- [Application Guidance for Site Permitting of Large Wind Energy Conversion Systems \(LWECS\) in Minnesota](#)
- [Solar Energy Production and Prime Farmland: Guidance for Evaluating Reasonable and Prudent Alternatives](#)
- [Guidance for Large Energy Wind Conversion System Noise Study Protocol and Report](#)

While these guidance materials do not have the force of a Commission order, they do provide a level of predictability for interested parties and a framework for review and analysis, while also allowing for development over time as best practices, laws, rules, and standards evolve. In cases where permittees deviate from the guidance, either EERA or the permittee can bring the matter to the Commission for a determination on the particular situation.

EERA staff recommends that the Commission take no action on the decision options B1 (standalone document), B2 (decommissioning plan content), B3 (financial surety instruments and timeline), B4 (financial surety for projects without a long PPS), B6 (third party estimates), B7 (financial surety beneficiary), B8 (recycling and reclamation), and E (agency coordination), and instead request DOC EERA to develop a decommissioning plan guidance document that addresses:

- the contents of decommissioning plan,
- allow for a wide range of financial assurance mechanisms,
- provide recommendations for a financial surety implementation timeframe that may vary depending upon whether the permittee has a long-term power sales agreement,
- preparation of cost estimates be prepared by a knowledgeable independent third party,
- beneficiary of the financial surety be an entity independent of the permittee, and
- agency coordination

Miscellaneous Items

Commission staff made several recommendations on items related to facility decommissioning, though not directly related to decommissioning plans for wind and solar facilities permitted by the Commission. EERA staff also recommends that the Commission either take no action or provide EERA staff with more guidance on the following decision options G1 (decommissioning of other facilities), G3 (status of C-BED facilities), and G4 (EERA encourages use of certain environmentally certified materials that are reusable

and recyclable at the time of decommissioning). EERA staff supports Commission staff recommendations to take no action on items G2 (solar panel management), G5 (enforcement language), and G6 (maps and monitors).

Table 1
EERA staff responses to Commission staff recommendations

Decision Option	Subject	Commission Staff	EERA
A	Decommissioning plans provided in application	A1 -encourage applicants to file decommissioning plan with application	A1
B1	Decommissioning plans as standalone documents	B1a – amend sample permit to require decommissioning plans be stand-alone documents	B1c –request EERA develop guidance addressing format of decommissioning plans
B2	More detailed content in decommissioning plans	B2a – amend sample permits to require detail recommended by EERA staff	B2c –request EERA develop guidance addressing content of decommissioning plans
B3	Financial surety instruments and funding timeline	B3a, c – amend sample permits to add language allowing for a range of financial assurance mechanisms and to require projects with a PPA of 20 years or more to begin funding in year 10 and be fully funded by the end of the PPA	B3e – request EERA develop guidance providing for a range of financial surety instruments and addressing a timeline for implementing funding and a milestone for full funding
B4	Financial surety for projects without long PPAs	B4a – amend sample permits to require facilities without long PPAs to be fully funded by year 15 or 20	B4d – request EERA develop guidance addressing timeline for projects without long PPAs
B5	Use of scrap and salvage value in calculation of decommissioning cost	B5c – Commission provides guidance on use of scrap and salvage values	B5c
B6	Third party estimates	B6a- amend sample permits to require decommissioning costs be prepared by a knowledgeable independent third party	B6c – request EERA develop guidance addressing the use of knowledgeable independent third party to prepare cost estimates for decommissioning plans
B7	Beneficiary of financial surety	B7c (<u>as per Commissioner Tuma’s 11/18/20 amendment</u>) – amend sample permit to require the permittee to secure the consent of local government or other entity to serve as beneficiary, require notification of change of beneficiary	B7e – request EERA develop guidance addressing designation of financial surety beneficiaries in decommissioning plans
B8	Recycling and reclamation	B8a, b – amend sample permits to require permittees to maximize recycling and minimize use of landfills or incineration and to include waste disposal and recycling practices	B8j – request EERA develop guidance addressing waste disposal and recycling in decommissioning plans
C	Decommissioning requirements for projects owned by rate regulated utilities	C1 – amend sample permits to clarify that rate regulated utilities need not file evidence of financial surety beyond Five-Year Depreciation studies	C1

D1	Periodic five-year review	D1b – Commission staff initiates decommissioning plan review for older permits	D1b
D2	Milestones for decommissioning plan review	D2a – amends sample permits to add other milestones for decommissioning plan review	D2a
D3	Rolling review schedule	D3a,b,c,d – rolling review proceeds consistent with EERA staff recommendations, EERA staff initiates review for permits with 5-year review provisions, Commission staff initiates review for permits without 5-year review provisions, EERA files annual status of wind and solar decommissioning review and activity.	D3a,b,c,d
E	Agency coordination	E1,2,3	E5 – request EERA develop guidance addressing anticipated permits and how agencies are notified of upcoming decommissioning actions
F	Decommissioning completion report	F1 – Amend sample permits to require decommissioning completion report	F1
G1	Decommissioning of other facilities	G1a – request EERA investigate feasibility of requiring decommissioning plans for other types of generation facilities and transmission lines owned by independent power producers	G1b – take no action
G2	Solar panel management	No action needed	No action needed
G3	Community based energy development (C-BED) projects	G3a – request EERA investigate the status of C-Bed projects and provide further recommendations	G3b – take no action
G4	Facility design	G4a,b – request EERA to encourage applicants to design facilities with reusable and recyclable at decommissioning and encourage applicants to specify components with environmental certification	G4c – take no action
G6	Maps of disturbance areas and monitors	G6c – take no action	G6c
G5	Enforcement language	G5c – take no action	G5c
G7	Authorize Commission staff to modify sample permit to correct errors and improve consistency	G7 – authorize Commission staff to modify sample permits	G7