

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger
David C. Boyd
Nancy Lange
J. Dennis O'Brien
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Stoneray
Power Partners, LLC for a Large Wind Energy
Conversion Site Permit for a 105 MW Wind
Project in Pipestone and Murray Counties

ISSUE DATE: July 24, 2013

DOCKET NO. IP-6646/WS-13-216

ORDER FINDING APPLICATION
COMPLETE CONDITIONALLY AND
REFERRING MATTER TO THE OFFICE
OF ADMINISTRATIVE HEARINGS

PROCEDURAL HISTORY

On June 10, 2013, Stoneray Power Partners, LLC (Stoneray) filed a site permit application for a 105-megawatt wind project in Pipestone and Murray counties (the Project).

On June 21, the Energy Facility Permitting Unit of the Department of Commerce (DOC EFP) filed comments on the completeness of the application.

On July 11, 2013, the application came before the Commission.

FINDINGS AND CONCLUSIONS

I. Jurisdiction

Under Minn. Stat. § 216F.04 and under Minn. R. 7854.0300, a person wanting to build a Large Wind Energy Conversion System (LWECS) must apply to the Commission for a site permit.¹ Because Stoneray's Project qualifies as an LWECS, Stoneray is required to file a site permit application.

II. Application Completeness

The DOC EFP reviewed the site permit application under Minn. R. Ch. 7854 and recommended that the Commission find the application complete, conditional on the filing of further information. Specifically, the DOC EFP requested that Stoneray file additional information on the

¹ Minn. Stat. § 216F.01, subd. 2, defines an LWECS as any combination of wind energy conversion systems with a combined nameplate capacity of 5,000 kilowatts or more.

decommissioning plan for the Project, including detailed cost information as required under Minn. R. 7854.0500, subp. 13. The DOC EFP also recommended that Stoneray be required to file additional information on its turbine layout maps (which do not differentiate the layouts) to identify distinctions between maps and to identify distinct turbine designations. Further, the DOC EFP recommended that Stoneray file Map 9, which shows the project area and natural features with an aerial background, with a topographical background to increase clarity.

Finally, the DOC EFP recommended that Stoneray be required to file an avian and bat protection plan at the end of the public comment period and prior to the Commission's decision on a draft site permit.

The Commission concurs with the DOC EFP in its recommendations and will therefore direct Stoneray to file the information, as set forth in the ordering paragraphs below.

III. Referral to the Office of Administrative Hearings

While no person has identified contested issues of material fact or recommended that the case be referred to the Office of Administrative Hearings for contested case proceedings, the Commission finds that it cannot resolve all issues raised by the application on the basis of the record before it. Those issues turn on specific facts that are best developed in proceedings conducted by an Administrative Law Judge. The Commission will therefore refer the matter to the Office of Administrative Hearings for summary proceedings under Minn. R. 7850.3800 to facilitate factual development of the record.

The Commission will also take the steps listed below to ensure adequate development of the record:

- request that the Administrative Law Judge assigned to this matter emphasize the statutory time frame within which the Commission must make a final decision on the application and strongly encourage the applicant and others to adhere to a schedule that conforms to this timeframe;
- direct the Commission staff to formally contact relevant state agencies, and request their participation in the development of the record and at public hearings;
- request development of the record on whether the proposed project meets the applicable permitting criteria under Minn. Stat. Ch. 216F and Minn. R. Ch. 7854; and
- request that the DOC EFP file comments on the merits of the application and the record, including recommendations, as well as modifications to the draft site permit, under timelines set forth by the Administrative Law Judge.

IV. Rule Variance

Under Minn. Rules, part 7829.3200, the Commission is authorized to vary any of 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 Minn. R. 7854.0800, the Commission must make a preliminary determination on whether to issue a site permit within 45 days of accepting an application. To ensure sufficient time to accommodate public input, the Commission will vary the 45-day time line of Minn. R. 7854.0800, making the following findings:

- (1) Enforcing the 45-day time line would impose an excessive burden upon the public, upon parties to the proceeding, and upon the Commission, by jeopardizing the thoroughness of the Commission's decision-making process.
- (2) Varying the 45-day time line would not adversely affect the public interest and would in fact serve the public interest by protecting the Commission's decision-making process.
- (3) Varying the 45-day time line would not conflict with any other standards imposed by law.

The Commission will promptly review public input and the comments of the parties and will make a preliminary determination on whether to issue a site permit as soon as practicable.

V. Public Hearing

To facilitate public participation and encourage members of the public to express their views on the application, the Commission will hold a public hearing on the site permit application. The hearing will be held jointly with the public hearing required under Minn. Stat. § 216B.243, subd. 4 on the certificate of need application.²

VI. Public Advisor

Upon acceptance of an application for a route permit, the Commission is to designate a staff person to act as the public advisor on the project under Minn. R. 7850.3400. The public advisor is available to answer questions from the public about the permitting process. In this role, the public advisor may not act as an advocate on behalf of any person.

The Commission will designate Tracy Smetana as the public advisor. Her contact information is: Tracy Smetana, Public Advisor, Minnesota Public Utilities Commission, 121 Seventh Place East, Suite 350, Saint Paul, Minnesota 55101-2147. She can be reached by telephone at 651-296-0406 and by email at consumer.puc@state.mn.us.

ORDER

1. The Commission hereby accepts the application as complete upon the filing of additional information, including:
 - a. further information on the project decommissioning plan and costs;

² The certificate of need application is under consideration in Docket No. IP-6646/CN-13-193.

- b. a statement that a draft avian and bat protection plan will be filed by Stoneray by the end of the public meeting comment period and prior to the Commission's decision on a draft site permit;
 - c. clarification of the turbine layout maps; and
 - d. the filing of Map 9 using a topographical background.
2. The Commission hereby requires that the public hearing held on the site permit application be combined with the public hearing held on the certificate of need application.
3. The Commissioner hereby refers the matter to the Office of Administrative Hearings for development of the record as described herein.
4. The Commission hereby varies Minn. R. 7854.0800 to extend the Commission's time period for making a preliminary determination on whether a site permit should be issued.
5. The Commission hereby appoints a public advisor as described herein.
6. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary



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