

The Commission met on **Thursday, February 11, 2010**, with Commissioners Boyd, O'Brien, Pugh, Reha and Wergin present.

The following matters were taken up by the Commission:

### **TELEPHONE AGENDA**

#### **P-442/M-09-1065**

#### **In the Matter of Revisions to AT&T Communications of the Midwest, Inc.'s Message Telecommunications Service Tariff Regarding Late Payment Fees**

Commissioner Pugh moved to dismiss the Department of Commerce's comments without prejudice, close the docket, and allow the Department, if it so chooses, to file a formal complaint, pursuant to Minn. Rules 7829.1700, addressing its concerns with AT&T's tariff.

The motion passed 5-0.

### **ENERGY AGENDA**

#### **IP-6728/CN-09-471**

#### **In the Matter of the Application of Heartland Wind, LLC for a Certificate of Need for a 150 MW Elm Creek II Wind Project in Jackson and Martin Counties**

Commissioner Reha moved that the Commission

1. Find that the Environmental Report adequately addresses the issues identified by the Environmental Report Scoping Decision; and
2. Grant Elm Creek Wind II, LLC a Certificate of Need for up to 150 MW for the Elm Creek II wind project and associated facilities.

The motion passed 5-0.

#### **IP-6728/WS-09-553**

#### **In the Matter of the Application of Heartland Wind, LLC, for a Large Wind Energy Conversion System (LWECS) Site Permit for the 150 MW Elm Creek II Wind Project in Jackson and Martin Counties**

Commissioner Wergin moved that the Commission

1. Adopt the attached Findings of Fact, Conclusions of Law and Order prepared for the 150 MW Elm Creek II Wind Project in Jackson and Martin counties with one amendment: amend Finding of Fact 45 to replace Redwood and Brown with Jackson and Martin; and

2. Amend the proposed LWECS Site Permit as follows and modify the Findings of Fact accordingly:

a. amend Sections III. C. 2. as follows:

III. CONDITIONS; C. SETBACKS; 2. Residences (page 8 of the Permit)  
Wind turbine towers shall not be located closer than ~~500~~ 1,000 feet from the nearest residence unless a waiver has been signed by the property owner, or the distance required to comply with the noise standards established by the MPCA at paragraph II,E,3, whichever is greater.

b. amend Section III. F. 2. as follows:

III. CONDITIONS; F. POST CONSTRUCTION STUDIES; 2. Noise (pages 12-13 of the Permit)  
~~Upon request of the Commission, t~~The Permittee shall submit a proposal to the Commission for the conduct of a noise study. Upon the approval of the Commission, the Permittee shall carry out the study. The study shall be designed to determine the noise levels at different frequencies and at various distances from the turbines at various wind directions and speeds.

c. amend Section IV as follows:

IV. SPECIAL CONDITIONS.  
Special Conditions shall take precedence over any of the other conditions of this permit if there should be a conflict between the two. ~~No special conditions have been identified.~~ The applicant shall provide data on shadow flicker impacts at the time it submits the final site plan and profile. Information should include, but not be limited to, the results of modeling used (if any) assumptions made, and the anticipated levels of impact from turbine shadow flicker.

The motion passed 5-0.

**IP-6824/WS-09-830**

**In the Matter of the Site Permit Application for a 20 Megawatt (MW) Large Wind Energy Conversion System (LWECS) in Stevens County, Minnesota**

Commissioner Wergin moved that the Commission:

1. Adopt the attached proposed Findings of Fact, Conclusions of Law and Order prepared for the 20 MW West Stevens Wind LWECS Project in Stevens County.

2. Issue the proposed LWECS Site Permit for the 20 MW West Stevens Wind project in Stevens County to West Stevens Wind, LLC with Section III.C. 2 amended as follows:

III. CONDITIONS, C. SETBACKS, 2. Wind turbine towers shall be located at a minimum of 500 feet from the nearest participating residence and 1,200 feet from the nearest non-participating residence, or the distance required to comply with MPCA Rules (Minnesota Rules 7030.0010) for Noise Area Classification I, whichever is greater (see paragraph III.E.3).

The motion passed, 5-0.

**E-111/M-09-1144**

**In the Matter of Dakota Electric Association's Annual Conservation Tracker Account Report**

Commissioner Pugh moved that the Commission:

1. Approve Dakota Electric Association's 2010 Annual Conservation Tracker Account Report; and
2. Approve recovery of the conservation tracker account balance through the Cooperative's Resource and Tax Adjustment beginning in January 2010.

The motion passed 5-0.

**E-017/M-09-1463**

**In the Matter of Otter Tail Corporation's d/b/a Otter Tail Power Company's Request for Approval for a Change in the Large General Service Tariff**

Commissioner Reha moved that the Commission:

1. Approve Otter Tail Power Company's proposal to revise the determination of billing demand in its Large General Service tariff; and
2. Not permit Otter Tail Power Company to recover any amounts based on the 80 KW minimum level for the period since final implementation of rates in the Company's last rate case.

The motion passed 5-0.

**E-135,298/SA-05-1274**

**In the Matter of the Application of the City of Redwood Falls to Extend its Assigned Service Area into the Area Presently Served by Redwood Electric Cooperative**

Commissioner Wergin moved that the Commission:

1. Approve the joint petition as filed on December 29, 2009; and
2. Amend the service-area map accordingly, per the legal descriptions shown in Exhibit A to the joint petition filed in e-dockets on December 29, 2009 (Docket ID 200912-4548801).

The motion passed 5-0.

**E-002/M-09-1167**

**In the Matter of the Petition of Northern States Power Company, a Minnesota Corporation, for Approval of a Solar\*Rewards Contract Tariff**

Commissioner Reha moved to approve the proposed contract with the changes agreed to by the parties, but substituting the language below for the agreed-upon language in section 2 (f):

Company may stop purchasing electricity from customer when necessary to construct, install, maintain, repair, replace, remove, investigate or inspect any equipment or facilities within its electric system when this activity would be adversely affected if customer were supplying power to the system.

The motion passed 5-0.

**E-002/M-08-440**

**In the Matter of Xcel Energy's petition for a Determination of Entitlement to Renewable Attributes of Energy Purchases Pursuant to Renewable Energy Requirements**

Commissioner Pugh moved that the Commission require Xcel, within 90 days of the date of the Commission's Order, to report on the status of its negotiation efforts regarding the ownership of RECs: 1) entered into under PURPA (Minn. Stat. § 216B.164); and 2) entered into under the wind or biomass statutes (Minn. Stat. §§ 216B.2423 and 216B.2424).

The motion passed 5-0.

There being no further business, the meeting was adjourned.

**APPROVED BY THE COMMISSION: FEBRUARY 24, 2010**



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**Burl W. Haar, Executive Secretary**