

The Commission met on **Thursday, June 30, 2011**, with Chair Anderson, and Commissioners Boyd, O'Brien, Reha and Wergin present.

The following matters were taken up by the Commission:

ENERGY AGENDA

E-002/TL-11-223

In the Matter of the Application for a HVTL Route Permit for the Orono Substation Expansion and new 115 kV Transmission Line Project

Commissioner Wergin moved that the Commission:

1. Accept the HVTL Route permit application submitted by Xcel Energy for the Orono Substation Replacement and 115 kV Transmission Line Project as complete and authorize the Department of Commerce Energy Facilities Permitting (EFP) staff to process the application under the alternative review process pursuant to Minnesota Rules, parts 7850.2800 to 7850.3900.
2. Authorize the EFP staff to name a public advisor in this case.
3. Determine that based on the available information an advisory task force is not necessary at this time.

The motion passed 5-0.

IP-6701/CN-09-1186

In the Matter of the Application of AWA Goodhue Wind, LLC for a Certificate of Need for a 78 MW Goodhue Wind Project and Associated Facilities in Goodhue County

Commissioner O'Brien moved to deny the certificate of need and subsequently withdrew the motion.

Commissioner Wergin moved that the Commission:

1. Find that the environmental report on this project adequately addresses the issues identified by the Environmental Report scoping decision.
2. Grant AWA Goodhue, LLC a certificate of need for up to 78 MW for the Goodhue Wind Project and associated facilities.

The motion passed 4 – 1, with Commissioner O'Brien voting against the motion.

IP-6701/WS-08-1233

In the Matter of the Application of AWA Goodhue Wind, LLC for a Large Wind Energy Conversion System Site Permit for the 78 MW Goodhue Wind Project in Goodhue County

Commissioner O'Brien moved that the Commission modify the site permit as follows:

1. Delete the second paragraph of section 4.2 of the site permit and insert the following language:

The permittee shall make a good faith effort to meet the setback requirements of the Goodhue County Ordinance by attempting in good faith to negotiate waivers for those affected by the 10 RD setback but in no event shall wind turbines be located closer than 6 RD from the residences of non-participating residents without further review by the Commission.

2. Modify section 6.2 of the site permit as follows:

The permittee shall make a good faith effort to mitigate shadow flicker including but not limited to timed suspension, trees as buffers, and shades. Additionally, at least ten (10) working days prior to the pre-construction meeting, the Permittee shall provide data on shadow flicker impacts on each residence of non-participating landowners and participating landowners. Information shall include the results of modeling used, assumptions made, and the anticipated duration of shadow flicker for each residence. The Permittee shall provide documentation on its efforts to avoid, minimize, and mitigate shadow flicker impacts.

3. Modify the first sentence of section 6.7 of the permit as follows:

The Permittee shall, in consultation with the Commission and DNR, prepare an avian and bat protection plan and submit it to the Commission for approval ~~at least ten (10) working days~~ prior to the pre-construction meeting.

4. Modify section 13.1 of the site permit as follows:

- a. Add the following sentence to the end of section 13.1.1:

The Permittee shall submit the results of the summer, fall, and winter surveys, and any subsequent surveys, to the Commission within one month of completion of the surveys.

- b. Add the following sentence to the end of section 13.1.2:

The Permittee shall submit the results of the 2011 monitoring by December 15, 2011 and the 2012 monitoring by December 15, 2012. Each report shall include an update on the status of the U.S. Fish and Wildlife Service potential listing of the Northern long-eared bat.

- c. Modify section 13.1.3 to read as follows:

The Permittee shall ~~take steps to~~ avoid placement of turbines in areas identified as highly suitable or very highly suitable loggerhead shrike habitat. Alternate turbine sites are to be considered the primary avoidance strategy. If alternate sites cannot be utilized as ~~the primary mitigation strategy~~, the Permittee shall provide the Commission and DNR with a Loggerhead Shrike Protection Plan for approval by the Commission detailing why avoidance is not possible, outlining strategies to minimize effects to Loggerhead Shrike, and providing mitigation measures for impacts. Permittee shall conduct two years of post-construction fatality monitoring to evaluate the impacts of wind turbines sited in loggerhead shrike habitat determined to be highly to very highly suitable.

The motion passed 5-0.

Commissioner Wergin moved that the Commission not accept the ALJ's finding of good cause to not apply the standards contained in the county ordinance.

The motion failed 1-4, with Commissioners Anderson, Boyd, O'Brien, and Reha voting against the motion.

Commissioner Boyd moved that the Commission adopt, with the following modifications, the Findings, Conclusions, and Order of the Energy Facilities Permitting Unit (EFP) of the Department of Commerce:

1. Modify EFP Finding 97 as follows (this is a change to the last line on page 19 of the Findings):

Considering these assumptions, the maximum annual expected (cumulative) shadow flicker hours at any non-participating receptor is 33 hours, 11 minutes.

2. Remove the last two sentences of EFP Finding 100.
3. Modify the fourth sentence of EFP Finding 138 as follows:

AWA Goodhue then conducted a Loggerhead Shrike Habitat Survey and Pre-Construction Spring Migration Survey to observe avian ~~and bat~~ species present within the projected area.

4. Modify the second sentence of EFP Finding 158 as follows:

By a combination of 1.5 MW and ~~4.5~~ 1.6 MW turbines in the Project, two fewer turbines are required, reducing siting needs for turbines and related facilities.

The motion passed 5-0.

Commissioner Boyd moved that the Commission adopt the report of the Administrative Law Judge (ALJ) with the following modifications:

1. Modify the first sentence of Finding 10 of the ALJ's Report as follows:

The Applicant ~~owns~~ has contracted with National Wind, LLC, a development company headquartered in Minneapolis, to provide development services for the project.

2. Reject Findings 40-46 of the ALJ's Report.
3. Modify Finding 60 of the ALJ's Report as follows:

The Commission's ~~general wind permit standards~~ General Wind Permit Standards Order requires that turbines must be set back at least 500 feet from all homes, plus whatever additional distance is necessary to meet state noise standards.

4. Modify the second sentence of Finding 71 of the ALJ's Report as follows:

In this case, because multiple turbines could potentially impact a residence, the Applicant conducted a sound modeling study in ~~June 2010~~ January 2011 to determine the maximum sound level from the cumulative effect of all proposed turbines.

5. Modify Finding 85 of the ALJ's Report to read as follows:

Although the other parties have suggested that the Applicant could re-negotiate its leases and participation agreements to take advantage of the 750-foot setback allowed for participants, or could offer to pay more money to nonparticipants in order to obtain more land rights, the record is clear that application of the 10-RD setback to the project (as it has been developed to date) ~~will effectively~~ may preclude the entire project. ~~The assertion that the Applicant may be able to negotiate waivers of this requirement with those who have declined to participate in the past is speculation that is not founded in any evidence.~~

The motion passed 4-1, with Commissioner Wergin voting against the motion.

Commissioner Reha moved that the Commission issue the amended site permit.

The motion passed 4-1, with Commissioner Wergin voting against the motion.

There being no further business, the meeting was adjourned.

APPROVED BY THE COMMISSION: August 31, 2011



Burl W. Haar, Executive Secretary