

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger  
Nancy Lange  
Dan Lipschultz  
Matthew Schuerger  
John A. Tuma

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Application of  
Blazing Star Wind Farm, LLC for a  
Certificate of Need for the 200 Megawatt  
Blazing Star Wind Project in Lincoln County

ISSUE DATE: September 19, 2016

DOCKET NO. IP-6961/CN-16-215

ORDER ACCEPTING APPLICATION AS  
SUBSTANTIALLY COMPLETE AND  
DIRECTING USE OF INFORMAL  
REVIEW PROCESS

**PROCEDURAL HISTORY**

On July 20, 2016, Blazing Star Wind Farm, LLC (Blazing Star or Applicant) filed a certificate of need application for a 200-megawatt wind energy conversion system project in Lincoln County (the project),

On July 25, 2016, the Commission issued a notice requesting comments on three matters:

- Whether the application was complete under the certificate of need rules, Minn. R. Chapter 7849;
- Whether there appeared to be any contested issues of fact at this stage in the case; and
- Whether the application should be evaluated using the Commission's informal process or referred to the Office of Administrative Hearings for contested case proceedings.

On August 2, 2016, the Department of Commerce, Division of Energy Resources (Department) filed comments recommending that the Commission find the application complete and that the Commission use its informal review process to develop the record in this proceeding.

On August 15, 2016, Blazing Star filed reply comments concurring with the Department.

On September 8, 2016, the Commission met to consider the matter.

## FINDINGS AND CONCLUSIONS

### **I. Jurisdiction**

Before building a large energy facility, an applicant must apply for a certificate of need.<sup>1</sup> A large energy facility includes any large electric power generating plant with a capacity of 50,000 kilowatts (kW) or more and transmission lines directly associated with the plant that are necessary to interconnect the plant to the transmission system.<sup>2</sup> Because the Blazing Star project qualifies as a large energy facility, a certificate of need is required. Minn. R. Ch. 7849 establishes the application requirements as well as the criteria for demonstrating need.

### **II. Application Completeness**

The Department reviewed the application for completeness under Minn. R. 7849.0240 through 7849.0340 and recommended that the Commission find the application to be complete. The Commission has reviewed the application and the comments and concurs with the Department that the application is substantially complete.

### **III. Process for Reviewing the Merits**

The Commission has the discretion to evaluate certificate of need applications using either contested case proceedings under Minn. Stat. §§ 14.57 et seq. or an informal notice and comment process under Minn. R. 7829.1200. No person has identified any contested issue of material fact or recommended that the case be referred to the Office of Administrative Hearings for contested case proceedings. The Commission will therefore direct use of the informal comments and reply process for developing the record. To ensure proper record development, the Commission will delegate to the Executive Secretary the authority to establish timelines and set deadlines.

In addition, the Commission will take the following steps to ensure proper development of the record:

- Ask the Department to examine the application and other materials submitted in the case and include in the hearing process its position on the reasonableness of granting a certificate of need to the Applicant;
- Direct the Applicant to facilitate in every reasonable way the continued examination of the issues by the Department and Commission staff;
- Require the Applicant to place a print or electronic copy of the application in the government center or public library located closest to the proposed site; and
- Direct the Applicant to work with Commission staff to arrange for publication of the notice of hearing in newspapers of general circulation at least ten days prior to the hearing; direct that such notice be in the form of visible display ads, and that proof of publication of such ads be electronically filed with the Commission.

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<sup>1</sup> Minn. Stat. § 216B.243, subd. 2 and Minn. R. 7849.0030, subp. 1.

<sup>2</sup> Minn. Stat. § 216B.2421, subd. 2(1).

Finally, the certificate of need statute encourages public participation in certificate of need proceedings, requiring at least one public hearing to obtain public opinion and requiring the Commission to designate an employee to facilitate citizen participation in the hearing process.<sup>3</sup>

The Commission will designate Kevin George to facilitate and coordinate public participation in this proceeding. His contact information is: Kevin George, Public Advisor, Minnesota Public Utilities Commission, 121 Seventh Place East, Suite 350, Saint Paul, Minnesota 55101-2147. He can be reached by telephone at 651-221-2251 and by email at [consumer@puc.state.mn.us](mailto:consumer@puc.state.mn.us).

#### **IV. Rule Variance**

Under Minn. R. 7849.0200, subp. 5, the Commission must make a decision on the completeness of an application within 30 days of its filing. This timeline did not allow the necessary time to review the application, solicit comments, schedule a Commission meeting and prepare a written order. However, the Commission may vary time periods established by rule.

Under Minn. R. 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.

Here, these criteria are met. More than 30 days are needed to review the submission, solicit comments, schedule a Commission meeting, and prepare a written order. The Commission will therefore extend the time frame for determining application completeness making the following findings:

- 1) Enforcing the 30-day time period of Minn. R. 7849.0200, subp. 5 would impose an excessive burden upon the public, upon parties to the proceeding, and upon the Commission and the Department, because it would not allow adequate time to review the application, schedule a Commission meeting, and issue a written order;
- 2) Varying the 30-day time frame would not adversely affect the public interest, and would instead serve the public interest by allowing more time for public comment on, and Commission consideration of, the application; and
- 3) Varying the 30-day time frame would not conflict with any standards imposed by law.

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<sup>3</sup> Minn. Stat. § 216B.243, subd. 4.

## ORDER

1. The Commission accepts the certificate of need application as substantially complete.
2. The Commission directs use of the informal review process to develop the record as described herein.
3. The Commission delegates to the Executive Secretary administrative authority to establish timelines and to set schedules.
4. The Commission varies Minn. R. 7849.0200, subp. 5 and extends the 30-day time frame for Commission decision on application completeness.
5. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Daniel P. Wolf  
Executive Secretary



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