

**STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION**

Katie Sieben	Chair
Joseph Sullivan	Vice-Chair
Matthew Schuerger	Commissioner
John Tuma	Commissioner
Valerie Means	Commissioner

<i>In the Matter of the Application of</i>)	
<i>Dodge County Wind, LLC for a</i>)	
<i>Certificate of Need, a Site Permit and</i>)	Docket Nos. IP6981/CN-20-865
<i>a Route Permit for the up to 259 MW</i>)	IP6981/WS-20-866
<i>Large Wind Energy Conversion System</i>)	IP6981/TL-20-867
<i>and associated 161 kV Transmission Line in</i>)	
<i>Dodge, Mower and Steele Counties, Minnesota</i>)	

**Dodge County Wind, LLC’s Response to Scoping Comments
and Proposed Alternative Route Segments**

I. Introduction

Dodge County Wind, LLC (“DCW”) respectfully submits this response (“Response”) to the comments submitted following the May 10 and 11 Environmental Assessment Scoping Meetings (“Scoping Meetings”) held in the above-referenced proceedings. This response addresses the requests for a contested case proceeding and appointment of an advisory task force embedded in the scoping comments. In addition, DCW generally addresses comments related to the DCW wind and transmission projects (collectively “the Project”), with the understanding that the issues raised can be more thoroughly addressed in a contested case proceeding. Finally, as explained below, DCW has carefully considered the comments on the proposed transmission route and is proposing new route segments to address the comments.

II. DCW Does Not Oppose a Contested Case Proceeding

In their scoping comments, a few commenters requested that the Commission order a contested case proceeding.¹ DCW does not oppose a contested case proceeding. DCW recognizes that a contested case proceeding can aid in fully developing the record and provide DCW and other parties with the opportunity to file testimony to address the issues raised by Dodge County and other commenters.

¹ Requests were made by Mr. Aaron Tempel (dated May 25, 2022), Ms. Marie McNamara (dated May 24, 2022), Ms. Carol Overland (May 24, 2022), Mr. Mark Preul (dated May 25, 2022), and Dodge County (June 6, 2022). Some of the earlier filed comments were not available on eDockets until June 1, 2022.

III. Requests for the Appointment of an Advisory Task Force Should be Denied

A few of commenters requested the establishment of an advisory task force pursuant to Minn. Stat. § 216E.08.2 The establishment of a task force, however, is not appropriate or necessary. Initially, the primary purpose of an advisory task force is to convene a group of local stakeholders, including local government officials, to help identify alternative locations to be evaluated in an environmental impact statement (“EIS”).³ Since the transmission line associated with the DCW Project is statutorily eligible for the alternative review process under Minn. Stat. § 216E.04, DCW was not required to propose an alternative site and an Environmental Assessment (“EA”) will be prepared in lieu of an EIS.⁴ Hence, requests for the establishment of an advisory task force are not aligned with the statutory purpose of such a task force.

Further, even if an advisory task force was established, the commenters do not provide a clear charge for a task force and do not appear to acknowledge that the primary purpose of a task force would be to identify alternative routes for the transmission line.⁵ Ms. McNamara, for instance, asserts “I request the Commission establish an Advisory Task force to obtain more information.... not provided by company paid consultants.”⁶ This comment, however, fails to recognize that the EA will be prepared by the Minnesota Department of Commerce, Energy Environmental Review and Analysis (“EERA”).

Additionally, in their comments, Mr. Tempel identifies 11 issues to be addressed by an advisory task force, ranging from turbine locations – to potential archeological issues – to where electricity generated from the Project will be consumed.⁷ Each of these issues can be fully addressed in contested case process without the need to expand the traditional scope of an advisory task force.

² Requests were made by Messrs. Aaron, James, Nathan and Benjamin Tempel (dated May 19, 2022), Ms. McNamara, Ms. Overland, Mr. Preul, and Mr. Eric Caspers.

³ Minn. Stat. § 216E.08, Subd. 1 provides: “The task force shall expire upon completion of its charge, upon designation by the commission of alternative sites or route to be included in the **environmental impact statement** . . .” Emphasis added. Similarly, Minn. R. 7850.2400, Subp. 3 states that “[t]he charge shall include the identification of additional site or routes or particular impacts to be evaluated in the **environmental impact statement**.” Emphasis added.

⁴ Minn. Stat. § 216E.04, Subd. 5 (“The environmental assessment shall be the only state environmental review document required to be prepared on the project.”). DCW is also not required to propose an alternative site for the wind farm under Minnesota Statutes Chapter 216F, nor is an EIS required.

⁵ While it is possible an advisory task force could be charged with evaluating alternative locations for the DCW wind Project, DCW assumes that, if appointed, the task force will be focused on the associated transmission line. DCW is unaware of any circumstance where the Commission appointed an advisory task force to evaluate alternative sites for a Large Wind Energy Conversion System (“LWECS”).

⁶ McNamara Comments at 1.

⁷ Tempels’ Comments at 2-3.

Further, the commenters' requests also do not provide a clear rational for why an advisory task force would materially enhance the review process or public participation in this case – particularly when the DCW project is already at the environmental scoping decision stage.⁸ As noted above, the purpose of establishing an advisory task force is to identify “additional site or routes” to be evaluated in the EIS – after which the task force expires.⁹ In this regard, Minn. R. 7850.2400, Subp. 1 provides that “the commission shall determine whether to appoint such a task force as early in the process as possible.” Establishment of a task force at this stage will only delay the preparation of the EA.

The existing review process, including referral for a contested case, will ensure that the concerns raised by the commenters are fully evaluated without the introduction of a complex and time-consuming process over 7 months after the DCW Applications were filed in January 2022. For these reasons, the Commission should decline to appoint an advisory task force.

IV. General Wind and Transmission Issues

DCW hereby responds to some concerns raised by commenters, and, where appropriate, directs interested parties to where in DCW's Applications the concerns are addressed.

A. Need for the Project

A commenter alleges that DCW failed to demonstrate a need for the Project and suggests that wind projects could never meet the requirements of Minn. Stat. § 216B.243, Subd. 3(5). Ms. Kristi Rosenquist, for example, alleges that DCW failed to demonstrate a need for the Project and suggests that wind projects could never meet the requirements of Minn. Stat. § 216B.243, Subd. 3(5) because “wind projects have consistent and measurable negative environmental impact with no measurable environmental benefits” and “wind is unreliable by its nature”¹⁰

Numerous wind projects – even those without power purchase agreements – have been granted certificates of need (“CON”)¹¹ – satisfying the requirements of Minn. Stat. § 216B.243

⁸ See CORRECTED - NOTICE OF RESCHEDULED PUBLIC INFORMATION & ENVIRONMENTAL ASSESSMENT SCOPING MEETINGS (April 19, 2022) (“Are there any alternative routes or route segments that should be considered to address potential impacts associated with the 161 kV transmission line?”).

⁹ Minn. Stat. § 216E.08, Subd. 1 (“The task force shall expire upon completion of its charge, upon designation by the commission of alternative sites or routes to be included in the environmental impact statement, or upon the specific date identified by the commission in the charge, whichever occurs first.”).

¹⁰ Rosenquist Comments at 3 (dated May 23, 2022).

¹¹ The Commission process specifically contemplates that proposed projects may not have power purchase agreements and specifies that obtaining a site permit does not authorize the construction of a project if the project does not have a power purchase agreement or other enforceable mechanism for the sale of power. Minn. R. 7854.1100, Subp. 3.

and related rules.¹² Moreover, there is a clear statutory preference for renewable resources like the DCW Project set forth in Minn. Stat. § 216B.243, Subd. 3a, which has been recognized by the Commission.¹³ Furthermore, DCW in its CON Application clearly demonstrated that it has satisfied the requirements of Minn. Stat. § 216B.243 and Minn. R. Chapter 7849; Ms. Rosenquist's claims are unsubstantiated.

Another commenter took issue with the CON information exemptions DCW received by virtue of its status as an independent power producer.¹⁴ DCW submits that such criticisms fail to recognize the Commission's authority to grant such exemptions under Minn. R. 7849.0200, Subp. 6. DCW provided all required information necessary for the Commission to grant a CON for the DCW Project based on the requirements of Minn. Stat. § 216B.243 and Minnesota Rules Chapter 7849.

B. Conservation Easement Impacts

- Commentors presented oral and written comments on the impacts the transmission line may have on a Board of Water and Soil Resources ("BWSR") Wetland Bank Easement (20-01-08-05 and 20-01-99-05) which has a goal to conserve habitat for migratory waterfowl.

Response: DCW's Amended Route Permit Application addresses potential impacts of the proposed transmission line on wildlife and wildlife habitat, which demonstrates that the proposed transmission line, as designed and sited, meets all applicable requirements related to its impact on wildlife and wildlife habitat. This includes design compliance with appropriate suggested practices outlined by the Avian Power Line Interaction Committee ("APLIC") collision manual (APLIC 2012).¹⁵ Particular attention has also been paid to portions of the proposed transmission line crossing of surface water features, which have a higher likelihood of attracting wildlife such as waterfowl.

¹² See, e.g., *In the Matter of the Applications of Walleye Wind, LLC for a Certificate of Need and Site Permit for the up to 109.7 MW Walleye Wind Project in Rock County Minnesota*, Docket No. IP-7026/CN-20-269, Order Granting Certificate of Need and Issuing Site Permit (September 17, 2021).

¹³ Minn. Stat. § 216B.243, Subd. 3a ("Use of renewable resource. The commission may not issue a certificate of need under this section for a large energy facility that generates electric power by means of a nonrenewable energy source, or that transmits electric power generated by means of a nonrenewable energy source, unless the applicant for the certificate has demonstrated to the commission's satisfaction that it has explored the possibility of generating power by means of renewable energy sources and has demonstrated that the alternative selected is less expensive (including environmental costs) than power generated by a renewable energy source. For purposes of this subdivision, 'renewable energy source includes hydro, wind, solar, and geothermal energy and the use of trees or other vegetation as fuel.'). Emphasis added.

¹⁴ See e.g., Overland Comments at 2-3.

¹⁵ Amended Route Application at Section 5.5.7.2.

C. Human and Animal Health and Safety

- Commentors presented oral and written comments on the potential impacts of the proposed wind facility and/or transmission line can have on human and animal health and safety. Topics include fire suppression; emergency service access; out of date traffic studies; sick building syndrome; ice throw setback recommendations from turbine safety manual; evacuation distances; turbine setbacks from roads; and sound; electro-magnetic energy interference; and stray voltage effect on human and livestock health.

Response: DCW's Amended Site Permit Application and associated Appendices B (Receptors) G (Pre-construction Sound Analysis) H (Shadow Flicker Analysis) and M (Wildlife Conservation Strategy/Avian and Bat Protection Plan), as well as DCW's Amended Route Permit Application, address potential impacts of the proposed wind farm and transmission line on human and animal health and safety. These analyses demonstrate that the proposed wind farm and transmission line, as designed and sited, meets all applicable human and animal health and safety requirements.

D. Impacts to Wildlife and Habitat

- Commentors provided oral and written comments on potential impacts to wildlife and wildlife habitat. These include potential impacts for waterfowl, eagles and other avian species; potential for habitat fragmentation; potential for collision with power lines or wind turbines; questions about eagle take permits and bat permits; turbine feathering for bats; concerns regarding avian study timing; potential impacts to calcareous fens and locations of wetlands, sloughs and flood plains.

Response: DCW's Amended Site Permit Application and associated Appendix M (Wildlife Conservation Strategy/Avian and Bat Protection Plan), as well as DCW's Amended Route Permit Application, address potential impacts of the proposed wind farm and transmission line to wildlife and habitat. The Wildlife Conservation Strategy/Avian and Bat Protection Plan, integrating appropriate studies, demonstrates that the proposed wind farm and transmission line, as designed and sited, meets all applicable requirements related to its impact on wildlife and habitat.

E. Landowner Agreements and Property Values

- Commentors provided oral and written comments on Project landowner agreements and potential impacts to property values.

Response: DCW's Amended Site Permit Application indicated that DCW has site control agreements with landowners for approximately 10,335 acres (91.2 percent) of the 11,366 acres of land required for successful construction and operation of the Project. DCW has executed and recorded landowner agreements for nearly 20,434 acres within the 28,348 acres that comprise the Project Site. DCW remains in negotiation with a number of landowners within the Project Site and anticipates adding acreage to the Project's leased lands before construction.

Additionally, Appendix F (Land Values) of the DCW's Amended Site Permit Application and Appendix H (Land Values) of DCW's Amended Route Permit Application shows that there is no market data indicating the Project will have a negative impact on either rural residential or agricultural property values in the surrounding area.

F. Sound

- Commentors provided oral and written comments on the impacts of sound from the Project. These include a recommendation for state to verify receptors; concerns regarding infrasound and low frequency sound; potential turbine curtailment; ground attenuation concerns; and other sound modelling concerns.

Response: DCW's Amended Site Permit Application, and associated Appendices B (Receptors) and G (Preconstruction Sounds Analysis), addresses potential noise impacts of the proposed Project. This analysis, integrating appropriate receptor identification, pre-construction sound analysis, and project sound modelling studies, demonstrates that the proposed wind farm, as designed and sited, meets Minnesota Pollution Control Agency ("MPCA") sound thresholds.

G. Potential Impacts to Soils and Agriculture

- Commentors provided oral and written comments on potential impacts to agriculture. These include disturbance to highly fertile soil; crop duster/aerial sprayer access along transmission line and around turbines; damage to drain tiles and ditches; and maneuverability of farming equipment within the wind farm.

Response: DCW's Amended Site Permit Application, and associated Appendix K (Decommissioning Plan), as well as DCW's Amended Route Permit Application, and associated Appendix (Decommissioning Plan), demonstrate that the proposed wind farm and transmission line, as designed and sited, meets all applicable requirements related to its impacts on soils and agricultural resources.

H. Wind Turbine Siting

- Commentors provided oral and written comments questioning whether the wind farm is appropriately sited.

Response: DCW's Amended Site Permit Application and associated appendices show that, as designed, the Project complies with all applicable setbacks and standards. DCW is aware that while Dodge County previously indicated that its ordinances pertaining to setbacks for wind farms less than 5 MW in size were not applicable to DCW,¹⁶ Dodge County indicated that it now wanted the wind farm to conform to its setback requirements. DCW does not view the application of the

¹⁶ Appendix E to DCW's Amended Site Permit Application includes an August 17, 2020 letter from Dodge County, stating "Dodge County would like to clarify that it was not the County's intent for Chapter 16 of the Dodge County Zoning Ordinance, and its setbacks, to be applied to a LWECS, like Dodge County Wind, seeking siting approval from the Commission."

Dodge County setback requirements as impacting wind turbine siting, but may impact the location of collector lines and access roads.

I. Project Decommissioning

- Commentors presented oral and written comments on the decommissioning of the Project, including questioning whether a decommissioning plan exists for the wind farm and transmission line and how the community is protected against a transfer of the financial burden during decommissioning or abandonment of the Project.

Response: DCW's Amended Site Permit Application in Appendix K (Decommission Plan) confirms that DCW is financially responsible for the decommissioning of the Project. A review of DCW's Decommissioning Plan will also be part of pre-construction compliance obligations included in any Site Permit issued for the Project.

J. Shadow Flicker and Visual Impacts

- Commentors provided oral and written comments related to potential shadow flicker and visual impacts from wind project infrastructure, including the threshold and mitigation for shadow flicker. Commentors also expressed concerns about the blinking of red warning lights on the wind turbines.

Response: DCW's Amended Site Permit Application in Appendix H provides an analysis of shadow flicker impacts, showing that the predicted expected annual shadow flicker duration ranged from 0 hours, 0 minutes per year to 59 hours, 42 minutes per year. The maximum expected flicker was at a participating receptor (#16). The maximum expected flicker at a non-participating receptor (#217) was 40 hours, 30 minutes. The majority of the receptors (387) were predicted to experience no annual shadow flicker. In all, 93 locations were predicted to experience some shadow flicker but less than 10 hours per year. The modeling results showed that 52 locations would be expected to have 10 to 30 hours of shadow flicker per year, and 22 receptors are expected to have over 30 hours of flicker per year, three of which are non-participating receptors.

With respect to blinking warning lights, as explained in the Amended Site Permit Application, DCW has committed to install a Aircraft Detection Lighting System, which will be positioned to provide full 360-degree surveillance of the airspace around the wind project in order to provide advance detection of approaching aircraft and automatic activation of the wind project obstruction lighting at a sufficient range for operational safety in compliance with Federal Aviation Administration regulations. The system will turn off the obstruction lighting when aircraft have cleared the control zone around the wind project or have moved to altitudes above the wind project regulatory minimums.

K. Minnesota Department of Natural Resource (“MNDNR”)

The following comments were submitted by MNDNR:

- Suggests a resubmission of an NHIS request if the project boundary and layout have changed since November 2018.

Response: In Section 8.21.3.2 of the DCW Amended Site Permit Application, the following was noted:

The MNDNR provided formal Natural Heritage Review letters for the Project on June 12, 2017, and November 15, 2018. A third request was submitted on April 29, 2020 (**Appendix E: Agency Correspondence and Responses**). In response, MNDNR confirmed that the Natural Heritage Review letter dated November 15, 2018, is still valid; thus, no additional review was necessary.

Since the last MNDNR request was submitted in April 2020, minor site plan changes to the wind farm facility have occurred. These include shifts in the collection line locations and small changes to access roads and crane paths to accommodate landowner requests and avoid environmental features such as wetlands. No turbines have been added or removed. Viable alternatives to Proposed Route segments are also presented herein for consideration. DCW intends to comply with DNR’s suggestion to resubmit an NHIS data review request on the modified project infrastructure locations.

- An Avoidance Plan is required for state endangered species: Henslow’s sparrow, loggerhead shrike, and horned grebe.

Response: Avoidance strategies for state endangered species are detailed in the Amended Route Permit Application, Amended Site Permit Application, and Appendix M – Wildlife Conservation Strategy/Avian and Bat Protection Plan. DCW will continue to coordinate with MNDNR regarding these species and will include avoidance measures for MNDNR review within the DCW Wildlife Conservation Strategy/Avian and Bat Protection Plan.

- Request for wildlife friendly BMPs and erosion control measures.

Response: DCW is committed to limiting impacts to soil and water resources, as well as wildlife habitat. Specific erosion control measures and other protective Best Management Practices (“BMP”) are provided in the Amended Site Permit Application, Section 8.21.7 as well as Appendix M – Wildlife Conservation Strategy/Avian and Bat Protection Plan. Similar measures are detailed in the Amended Route Permit Application in Section 5.5.2.2, Section 5.5.7.2, and Section 5.6.1.4.

- Recommendation that EA analyze visual and recreational impacts to Rice Lake State Park

Response: DCW acknowledges this recommendation and that a decision to include in EA is within the purview of the EERA. DCW is committed to providing data, or conducting this analysis, to assist with the drafting of the EA, should it be requested by EERA.

- Request that substation lighting minimizes blue hues

Response: DCW commits to avoid “blue hue” nighttime lighting of the Project substation and will use amber-hued lighting. Substation nighttime lighting will only be illuminated when technicians are present and working. In addition, external substation lighting will be equipped with an automatic shut-off mechanism as a back-up to prevent unnecessary nighttime illumination.

- The EA should clarify how many times public waters are crossed by crane paths, collector lines, and access roads. The EA should also address the proposed crossing methods and the measures that will be used to avoid or minimize impacts.

Response: DCW acknowledges this recommendation and that a decision to include these calculations in the EA is within the purview of the EERA. Waters designated by the state of Minnesota as Public Waters (Minn. Stat. § 103G.005, subd. 15) (“PWI”) are regulated by the MNDNR, as set forth in Minn. Stat. § 103G.005, subd. 15 (MNDNR 2021e). The MNDNR requires a license to cross PWI waters with an electric transmission line or underground electric collection line (Minn. Stat. § 84.415).

The locations of public waters within the wind facility project area are presented in the Amended Site Permit Application Map 18. The wind facility includes one access road within a public water and 17 collection line crossing beneath public waters. As discussed in Section 8.18.2 of the Amended Site Permit Application, the Applicant would obtain all permits, licenses, and approvals for surface water crossings, including those associated with impacts to PWI streams. All conditions of approval and required mitigation for these permits would be integrated during project construction. With these mitigation measures in place, negligible residual impacts to public waters are expected from project construction and operations. MNDNR would require a Public Waters Work Permit for the access road placement and a Public Waters Utility License for the underground collection lines.

As discussed in the Amended Route Permit Application Section 5.2.2.1, permanent impacts to streams and ditches will be largely avoided by completely spanning the beds and banks of these features. In the case of the five PWI watercourses intersected by the Proposed Route, the spans would also include the required 50-foot protective buffers. Thus, permanent impacts within PWI protective buffers will be avoided to the extent practicable and MNDNR would require a Public Waters Utility License for the spanning of the public waters by the electric transmission line. The alternative route segments discussed herein would also span required PWI protective buffers.

L. Dodge County

Dodge County provided the following written comments:

- Advises that strict conditions be put in place for stormwater management in High Sensitivity Groundwater Areas

Response: DCW has requested clarification and data for these area locations from Dodge County as data available on the Dodge County website and elsewhere does not indicate High Sensitivity Groundwater Areas within the wind facility or transmission project areas. DCW will endeavor to locate appropriate stormwater management controls in High Sensitivity Groundwater Areas located within the Project boundary, should any be identified by Dodge County.

- Request that agricultural operations, including but not limited to: aerial crop dusting, planting, spraying, manure/fertilizer application, harvesting and other normal fieldwork activities, are not negatively impacted by turbine and access road construction or placement. Efforts should be made to work with local authorities on the timing and location of construction activities to mitigate any adverse effects to on-going agricultural activities

Response: As discussed in the both the Amended Site Permit and Amended Route Permit Applications, neither the wind facility or the Project transmission line is expected to significantly impact agricultural land use or the general character of the area. Landowners will be directly compensated for both temporary construction impacts and permanent loss of farmland. Revenue lost from the removal of land from agricultural production will be offset by lease payments to landowners according to their respective voluntary contracts with DCW. The timing and location of construction activities is coordinated with landowners participating in the Project and local authorities. Based upon coordination with crop dusting entities in the vicinity of the Project and associated transmission line, DCW commits to marking transmission line guy wires with longer guy line markers to assist with aerial crop dusting.

- Concern expressed for adequate stormwater management. Requests that effective measures be in place to mitigate negative impacts to surface and groundwater quantity and quality from the projects

Response: As discussed in the Amended Route Permit Application Section 5.5.2.2, DCW will apply for a National Pollutant Discharge Elimination System (“NPDES”) Permit from the MPCA, which will include development of a Stormwater Pollution Prevention Plan (“SWPPP”). The SWPPP would systematically employ BMPs for the protection of surface waters from erosion resulting from construction activities, consistent with the MPCA Stormwater BMP Manual. These actions would be employed to contain excavated material and assure that no drainages would be impeded. These would include specific topsoil protection actions, protection of disturbed and exposed soil, and revegetation of temporary surface disturbance with appropriate plant species. Temporary culverts or other temporary crossing devices would be utilized to maintain proper drainage in accordance with the SWPPP and any permit requirements.

As discussed in the Site Permit Application Section 8.16.2 and 8.18.2, a NPDES permit, SWPPP, and BMPs will be developed and implemented prior to the commencement of construction. Sedimentation and erosion will be reduced through the use of BMPs, which may include mulching, hydroseeding, erosion control blankets, silt fence installation, jute matting, revegetation, and/or interim reclamation. Dust control measures will be implemented during construction.

BMPs will be employed so that excavated material is contained, exposed soil is protected, restored material is stabilized, and disturbed areas are revegetated with appropriate plant species. With these design considerations and mitigation measures in place, significant adverse impacts to wetlands are not anticipated as a result of the Project.

As discussed in Section 8.17.1 of the Amended Site Permit Application and Section 5.5.3.1 of the Amended Route Permit Application, Project activities are not expected to impact groundwater resources due to compliance with setbacks from water wells, limited depth of project construction, and the minimal water-related needs of the Project. With these mitigation measures in place, negligible adverse impacts to surface water or groundwater are anticipated.

- Objection to any activities that would violate the floodplain regulations and potentially jeopardize the county's participation in the National Flood Insurance Program or prevent the county from obtaining funding for emergency services

Response: The DCW Project has been designed to avoid siting of any above-ground, permanent structures within Federal Emergency Management Agency ("FEMA")-designated floodplains. Project collection lines and construction easements (temporary impacts) are located within FEMA floodplains. As no permanent, above-ground Project infrastructure is planned within FEMA-designated floodplains, DCW understands that the Project would not violate floodplain regulations or jeopardize Dodge County's participation in the National Flood Insurance Program or prevent the county from obtaining funding for emergency services.

V. Route Segment Alternatives

A. Route Segments

As explained in the Amended Route Permit Application, the primary guiding factor in development and siting of the Proposed Route for the associated transmission line was Minnesota Statute § 216E.03, including subdivisions (subd.) 7(b)(8) and (e) related to the evaluation of routes using existing transmission and highway right-of-way ("ROW").

Written comments expressing concerns regarding consequences of siting the transmission line route within existing road ROW were submitted from members of the public, MNDNR, and Mower and Dodge Counties. As discussed in the DCW Amended Route Permit Application, the proposed 161kilovolt ("kV") transmission line was planned and sited in township and county road ROW to meet all relevant local and state codes, North American Electric Reliability Corporation Reliability Standards, the National Electric Safety Code, the Minnesota Administrative Rules (Minn. R.) 8820.9920, and the Minnesota Department of Transportation (MnDOT) Utility Accommodation and Coordination Manual.

While the Proposed Route remains feasible from an engineering and safety perspective, the written comments seek DCW to move the transmission line off the road ROW. Therefore, to be responsive to these comments, DCW will seek opportunities along the Proposed Route to site project infrastructure on private lands within the Route Width to the maximum extent possible. Further, to maximize the opportunity to utilize private land, DCW is proposing several alternative

route segments for consideration. These alternative route segments fall entirely within the Route Permit Application notice area and are shown on Figure 1. These potential route segments were assessed using the same 13 criteria developed for the Project, consistent with factors listed in Minn. R. 7850.4100 and Minn. Stat. § 216E.03.

DCW used the following primary guiding criteria for these alternative route segment selections: 1) DCW identified alternative route segments where DCW holds relationships with landowners that indicate there is maximum opportunity to site the Project ROW on private land, thus responding to comments concerning the use of existing road ROW; 2) DCW limited siting to roads with relatively wide ROW to allow additional space for transmission line structures with regard to traffic safety, drainage ditches within road ROW, and other ROW functions; and 3) DCW prioritized alternative route segments that are consistent with the routing guiding factors in Minn. R. 7850.4100 and Minn. Stat. § 216E.03. An additional consideration included further distance from particular protected areas and natural resources including BWSR wetland bank easements #20-01-99-05 and #20-01-08-05. Figure 2 illustrates a comparison of these alternative route segments with corresponding Proposed Route segments (1-6) proposed in the DCW Amended Route Permit Application. Figure 3 includes a map book of each new alternate segment and the corresponding segment of the alignment presented in the Application.

The following text describes each Alternative Route Segment. Thereafter, Table 1 summarizes comparable Proposed Route segments to Alternative Route Segments.

Segment A:

Segment A starts at the intersection of 160th Avenue [County State Aid Highway (CSAH)] and 670th Street (township road). The segment heads east along 670th Street within private land, just outside of the road ROW for approximately 2.3 miles before turning south and running within private land, just outside of the road ROW of 180th Avenue (township road) for approximately 1 mile and crosses 680th Street (CSAH) and then continues due south through private land for 1 mile. Then, the segment then turns east onto 690th Street (township road) and runs within private land, just outside of the road ROW for 1 mile. The segment then crosses Highway 56 (state highway) into a privately owned parcel. Within the private parcel, the segment travels southeast for 0.5 miles, then heads south for less than 0.1 miles, then southeast for 0.6 miles and then crosses 700th Street and 200th Avenue (township road) at 45-degree angles, ending on the southeast side of the intersection.

Segment B:

Segment B starts at the end of Segment A, on the southeast side of the intersection of 200th Avenue and 700th Street and heads northeast, crossing 700th Street at a 45-degree angle. The segment travels approximately 1.8 miles within private land, just outside of the road ROW, then turns south and runs along 220th Avenue (CSAH) within private land, just outside of the road ROW for approximately 2 miles, crossing 710th Street (CSAH) and ending at 720th Street (township road).

Segment C:

Segment C starts at the intersection of 220th Avenue (CSAH) and 740th Street (township road). The segment heads south along 220th Avenue, crossing 750th Street (county road), within private land, just outside of the road ROW for approximately 2 miles. The segment then turns east onto Dodge Mower Rd. (CSAH) and continues within private land, just outside of the road ROW for approximately 1 mile, ending at 230th Avenue (township road).

Table 1. Comparison of Proposed Route Segments to Alternative Route Segments

Proposed Route Segment	Corresponding Alternative Segment	Alternative Segment Addresses	Comparison of the Segments
Segment 1	N.A.	N.A.	N.A.
Segment 2	Segment A	<p>-Alternative segment avoids BWSR wetland bank easements.</p> <p>-Alternative segment involves an additional 3.8 miles county road ROW compared to Proposed Route segment that uses narrower township road ROW.</p>	<p>-Alternative Segment is shorter in length compared to Proposed Route segment.</p> <p>-Alternative Segment includes approximately 2 more miles (length) within the wind project boundary, maximizing landowner participation.</p> <p>-Alternative Segment has no residences within 150 feet.</p> <p>-Alternative Segment crosses fewer acres of prime farmland.</p> <p>-Approximately 1.7 miles of Alternative Segment does not parallel an existing corridor (<i>i.e.</i>, road or existing transmission line).</p> <p>-Alternative Segment has more turns (angles).</p>
Segment 3	Segment B	<p>Alternative segment involves an additional 2.7 miles county road ROW compared to Proposed Route segments that uses narrower township road ROW.</p>	<p>-Alternative Segment has fewer angles greater than 30 degrees.</p> <p>-Alternative Segment has no residences within 150 feet.</p> <p>-Alternative Segment maximizes landowner participation.</p> <p>-Alternative Segment crosses fewer acres of prime farmland.</p> <p>-Alternative Segment crosses more roads.</p>
Segment 4	N.A.	N.A.	N.A.
Segment 5	Segment C	<p>Alternative segment sited involves an additional 3.0 miles county road ROW compared to</p>	<p>-Alternative Segment crosses fewer wetlands and public watercourses.</p>

Table 1. Comparison of Proposed Route Segments to Alternative Route Segments

Proposed Route Segment	Corresponding Alternative Segment	Alternative Segment Addresses	Comparison of the Segments
		Proposed Route segment that uses narrower township road ROW.	<ul style="list-style-type: none"> -Alternative Segment crosses fewer acres of prime farmland crossed. -Alternative Segment has no residences within 150 feet. -Alternative Segment maximizes landowner participation.
Segment 6	N.A.	N.A.	N.A.

In addition to the above explanation related to the proposal of additional measures to move the transmission line onto private easements and use of alternative segments, DCW provides the following responses to specific comments and concerns regarding the transmission route.

B. Response to MNDNR Routing Comments

The MNDNR provided written comments regarding the following items:

- Recommendation for a site permit condition requiring coordination with trail users to ensure rider safety

Response: DCW initiated coordination with Kasson-Mantorville Snowmobile Trail and Dodge County Snowmobile Trail in 2017. As noted in Section 8.7.2 of the Amended Site Permit Application, DCW will coordinate with local snowmobile clubs regarding construction timing to minimize temporary impacts and maintain the safety of both construction workers and recreationalists. As stated in Section 5.2.10.2 of the Amended Route Permit Application, the Applicant will continue to coordinate with potentially impacted snowmobile clubs regarding the placement of pole structures in the vicinity of trails as well as construction timing. Coordination regarding any safety and any rerouting of existing trails will occur when project design is more refined and in advance of the snowmobile season's annual trail mapping. DCW is agreeable to the proposed condition.

- DNR prefers the Proposed Route segment as opposed to the Alternate White segment (Amended Route Permit Application) due to presence of Sullivan's milkweed within road right of way along 680th Street

Response: DCW acknowledges this preference and is amenable to discontinuing consideration of the Alternate White segment presented in the Amended Route Permit Application.

- A wetland bank property encompassing 160 acres of ecologically diverse habitat is located west of the proposed route along 170th Avenue between 680th Street and

690th Street. DNR wildlife staff concur with property owner's assessment regarding the ecological value of this property. Recommends an alternative segment that runs east/west along 680th Street from 170th Street to Minnesota Trunk Highway 56 (TH 56) and north/south along TH 56 between 680th Street and 700th Street.

Response: It is DCW's understanding that MnDOT's interpretation of its Utility Accommodation Policy does not support the longitudinal placement of the Project in MnDOT TH56 ROW thereby making DNR staff's recommended segment not viable. However, DCW offers Alternate Segment A for consideration with the Proposed Route Segment 2 (see Figure 2 and Figure 3-1) to comply with the MnDOT Utility Accommodation Policy as well as increase the distance from the cited wetland bank property.

- Requests consideration of a segment alternative that would avoid fragmentation of riparian habitat near the Zumbro River between 720th Street and 740th Street

Response: A viable Alternative Segment has not been identified for this location. DCW respectfully notes that the tributary to the Zumbro River crossed by the Proposed Route Segment 4 (Figure 1) between 720th Street and 740th Street supports only sparse riparian habitat and is surrounded by active agricultural fields. Thus, little fragmentation of habitat is anticipated by siting of the Proposed Route in this location. As discussed in the Amended Route Permit Application, Section 5.2.2.1, permanent impacts to streams and ditches will largely be avoided by completely spanning the beds and banks of these features. Furthermore, this reach of the tributary to the Zumbro River is not designated by MNDNR to be PWI.

DCW is committed to minimizing impacts to waterways and associated wetlands and riparian habitat. Therefore, should the final alignment include this crossing, the waterway and banks would be completely spanned by the proposed transmission line, avoiding impacts to the waterway, and further minimizing potential fragmentation to the limited riparian habitat.

C. Response to Dodge County Routing Comments

Dodge County provided the following written comments:

- Dodge County would prefer that the Project utilize the MnDOT ROWs associated with State Hwy 56 and State Hwy 30 for routing.

Response: As explained above, it is DCW's understanding that MnDOT's interpretation of its Utility Accommodation Policy does not support the longitudinal placement of the Project, which makes Dodge County's preference not viable. Accordingly, DCW's Amended Route Permit Application and the route segment alternatives presented herein do not include use of MnDOT ROW for parallel placement of Project infrastructure along State Hwy 56 or State Hwy 30.

- Dodge County would prefer that the Applicant utilize the MnDOT ROWs associated with State Hwy 56 and State Hwy 30 for routing of the 161 kV transmission line. However, MnDOT is maintaining that use of the state ROW would not be allowed as DCW is a "private utility". Similar to Goodhue County's position stated in 2018, Dodge

County does not believe we have the legal authority to treat a private utility as a public utility for the use of county or township ROW.

Response: As filed with the Amended Site Permit Application, Minnesota State Attorney General issued an Opinion on July 25, 2018, concluding that DCW has the authority to utilize road ROW for the entirety of the potential route for the Project. Specifically, the Opinion concludes that Minn. Stat. § 223.37 (2017) “includes any company that provides power as an entity with access to the public right-of-way and does not limit such access granted to public utilities as defined in Minn. Stat. 216.02.” Consistent with the Attorney’s General’s Opinion, DCW respectfully disagrees with the position that it does not have the legal authority to use Dodge County road ROW to site the transmission line.

Further, the Attorney General's Opinion is well supported in Minnesota's energy facility siting statutes. Minnesota's Power Plant Siting Act (Minnesota Statutes Chapter 216E) specifically recognizes that private entities like DCW are "utilities." In particular, Minn. Stat. § 216E.01, Subd. 10 defines “utility” as “any entity engaged or intending to engage in this state in the generation, transmission, or distribution of electric energy including, but not limited to, a private investor-owned utility, cooperatively owned utility, and a public or municipally owned utility.” As a "utility" seeking a Route Permit for a transmission line from the Commission, DCW is required to evaluate "potential routes that would use or parallel existing railroad and highway rights-of-way" under Minn. Stat. § 216E.03, Subd. 7(b)(8) (Emphasis Added). Under Minn. Stat. § 216E.03, Subd. 7(e), the Commission "must make specific findings that it has considered locating a route for a high-voltage transmission line on an existing high-voltage transmission route and the use of parallel existing highway right-of-way and, to the extent those are not used for the route, the commission must state the reasons." In light of DCW's long-term PPA with Great River Energy, DCW's proposed transmission line serves the public and is in the public interest.

- The ROWs associated with county and township roads do not provide adequate space for most installations without additional private easements being obtained.

Response: As stated in the Amended Route Permit Application Section 4.1.2, while overhang easements provide pole spacing flexibility, they are not necessary for the safe operation of the transmission line. Generally, the transmission line can be safely operated and maintained in a road with ROW as narrow as 50 feet. DCW has verified through desktop and field surveys that the transmission line can be placed safely in all road ROWs along the Proposed Alignment, including the narrowest roads that have a 66-foot-wide ROW.

Nevertheless, in response to these concerns, DCW has begun seeking opportunities to utilize private land to locate project infrastructure to the maximum extent possible and has proposed several Alternative Segments for the Proposed Route. The primary guiding criteria for these alternative route selections are: 1) route options where DCW holds relationships with landowners that suggest there is an opportunity to site the Project on private land; and 2) as necessary, limiting siting to county roads with relatively wide ROW, to allow ample space for transmission line structures that would facilitate addressing any traffic safety issue, or other ROW functions including drainage and agricultural equipment maneuvering and practices.

D. Response to Mower County Routing Comments

Mower County provided the following written comments:

- Lands within 300 feet of PWI should be treated the same in Mower County as in Dodge County and in compliance with Mower County Shoreland Overlay regulations.

Response: In compliance with Mower County Shoreland Overlay regulations, no Project infrastructure or construction activities in Mower County are planned within 300 feet of MNDNR-designated PWI. Transmission line pole placement will be located so as to fully span the shoreland areas.

- Structure placement within township road ROW could infringe upon the required clear zone and could impede drainage patterns.

Response: As discussed in the Amended Route Permit Application Section 2.4.7, for all roads along the Proposed Route, regardless of the use of overhang agreements, structures will be placed outside of clear zones consistent with Minn. R. 8820.9920 and in compliance with utility permits anticipated to be issued from Dodge County Highway Department, Mower County Public Works, and MnDOT. Where required, drainage patterns can be modelled to ensure there is no infringement from final structure placement.

- Preference for structures to be located outside of Mower County road ROW.

Response: DCW recognizes the preference to locate project infrastructure outside of Mower County road ROW. DCW is currently coordinating with landowners adjacent to county roadways along the Proposed Project ROW to obtain private land easements to move planned infrastructure just outside of county road ROW to the extent feasible. In Mower County, DCW believes the Route proposed in the Amended Route Permit Application holds the greatest potential for maximizing the use of private land, and, thus, an alternate segment is not identified herein.

VI. Conclusion

DCW appreciates the opportunity to file this response.

Dated: July 29, 2022

Brian J. Murphy
Managing Attorney
NextEra, Energy Resources, LLC
700 Universe Blvd.
Juno Beach, FL 33408
(561) 694-3814
Brian.J.Murphy@nee.com

Respectfully Submitted,

/s/ Brian Meloy
Brian Meloy
Stinson
50 South Sixth Street
Suite 2600
Minneapolis, Minnesota 55402
(612) 335-1451
Brian.Meloy@stinson.com

In the Matter of the Application of Dodge County) Docket Nos. IP6981/CN-20-865
Wind, LLC for a Certificate of Need, a Site) IP6981/WS-20-866
Permit and a Route Permit for the up to 259 MW) IP6981/TL-20-867
Large Wind Energy Conversion System and)
associated 161 kV Transmission Line in Dodge,) **CERTIFICATE OF SERVICE**
Mower and Steele Counties, Minnesota)
)

Name	Email/Address	Delivery Method
Generic – Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Electronic
Adam Duininck	aduininck@ncsrcc.org	Electronic
Kate Fairman	kate.frantz@state.mn.us	Electronic
Annie Felix Gerth	annie.felix-gerth@state.mn.us	Electronic
Sharon Ferguson	sharon.ferguson@state.mn.us	Electronic
Lucas Franco	lfranco@liunagroc.com	Electronic
Al Henslin	ahenslin@hotmail.com	Electronic
Kari Howe	kari.howe@state.mn.us	Electronic
Ray Kirsch	Raymond.Kirsch@state.mn.us	Electronic
Stach Kotch Egstad	Stacy.Kotch@state.mn.us	Electronic
Karen Kromar	karen.kromar@state.mn.us	Electronic
Mark Lennox	Mark.Lennox@nee.com	Electronic
Arlinda Marquardt	305 4th St NE, Apt 118 Hayfield, MN-55940	Paper
Brian Meloy	brian.meloy@stinson.com	Electronic

Name	Email/Address	Delivery Method
Peder Mewis	pmewis@cleangridalliance.org	Electronic
Judge Kimberly Middendorf	kimberly.middendorf@state.mn.us	Electronic
Brian Murphy	Brian.J.Murphy@nee.com	Electronic
Kevin Pranis	kpranis@liunagroc.com	Electronic
Generic – Residential Utilities	residential.utilities@ag.state.mn.us	Electronic
Stephan Roos	stephan.roos@state.mn.us	Electronic
Nathaniel Runke	nrunke@local49.org	Electronic
Zachary Ruzycki	zruzycki@greenergy.com	Electronic
Will Seuffert	Will.Seuffert@state.mn.us	Electronic
Janet Shaddix Elling	jshaddix@janetshaddix.com	Electronic
Cynthia Warzecha	cynthia.warzecha@state.mn.us	Electronic

Dated this 29th day of July, 2022

/s/ Joshua M. Feit

Joshua M. Feit