

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Applications of Three
Waters Wind Farm, LLC for a Certificate of
Need and Site Permit for the up to 201 MW
Large Wind Energy Conversion System in
Jackson County

THIRD CONTINUANCE ORDER

On July 23, 2020, the Administrative Law Judge continued the two public hearings scheduled to take place in the afternoon and evening of July 28, 2020. This was done because Scout Clean Energy sold Three Waters Wind Farm, LLC, (Applicant) to Twin Wind, LLC, on July 14, 2020.

On July 30, 2020, the Applicant advised the Judge that it intends to use the remainder of the calendar year to work with the community, landowners, and state agencies before making determinations about how to proceed with the wind farm project. Applicant advised that any amendments to the applications will be filed in 2021. The Judge was concerned with the indefinite nature of the suspension of the regulatory process and the impact that suspension will have on public participation in that process.

As a result, on August 13, 2020, the Judge convened a conference call with the parties (Applicant and Department of Commerce Energy Environmental Review and Analysis unit) and PUC staff. The Judge discussed Applicant's request, the scheduling of the public hearing, and whether the applications should be withdrawn pending Twin Wind's review of the project with the participants. The Judge then spoke with the Executive Secretary of the Minnesota Public Utilities Commission (PUC). The PUC delegated administrative authority, including scheduling and timing issues to the Executive Secretary.¹

It is the policy of the State of Minnesota that the siting of Applicant's proposed wind farm be conducted in an orderly way, compatible with environmental preservation, sustainable development, and the efficient use of resources.² There are three legal requirements in fulfilling this policy that are central to the Administrative Law Judge's analysis of the schedule in this matter. One is that the Public Utilities Commission (PUC) must make a timely final decision on siting and certificates of need (180 days and 12

¹¹ Order Accepting Application, Directing Use of Informal Review Process, and Other Action at 4 (Oct. 23, 2019) (eDocket No. 201910-156842-010; Order Accepting Application, Establishing Procedural Framework, and Varying Rules at 7 (Dec. 23, 2019) (eDocket No. 201912-158553-01).

² Minn. Stat. § 216F.03 (2020), Minn. R. 7854.0200 (2019).

months from acceptance of applications, respectively).³ These timelines may be extended.⁴ Another requirement is that the public be involved so that “public opinion on the necessity of granting a certificate of need and . . . a site or route permit” is obtained for consideration by the PUC.⁵ Finally, the PUC is to “take all reasonable actions. . . to maximize benefits to Minnesota citizens” in reaching the State’s renewable energy objectives.⁶ These requirements drive the Administrative Law Judge’s determination in this Order.

This Order is intended to help the Twin Wind, LLC, to conduct its due diligence to be sure its investment in the Applicant will be appropriately beneficial. It is also intended to meet the State’s regulatory objectives concerning renewable energy, an orderly regulatory process, and public participation and input in the decision-making about the applications. The overall intent is to maximize the benefits of the project to Minnesota citizens - which does not predispose the project to a particular outcome.

Pursuant to Minn. Stat. 14.50 (2020)⁷, Minn. R. 1400.5500, .7500, 1405.1100 (2019), other applicable law, and the record in this matter,

IT IS HEREBY ORDERED:

1. A prehearing conference will be convened by telephone at **9:30 a.m.** on **Wednesday, September 30, 2020**. At that time, the parties will dial **888-742-5095** and use conference code **685 684 1864#**.

2. The purpose of the prehearing conference will be to set the final schedule for the public hearing, and related events, on the applications. The following parameters will guide the prehearing discussion:

- (a) Two public hearings will occur on the same date. One will be held at 1:00 p.m. and the other at 6:00 p.m. They will be held via WebEx. The proposed possible dates for the hearing are December 9 and 10, 2020.⁸
- (b) The public comment period will end on January 5, 2021.
- (c) The Applicant may file a response to any public comments no later than January 15, 2021.

³ Minn. Stat. § 216F.04(e) (2020), Minn. Stat. § 216B.243, subd. 5 (2020), Minn. R. 7850.3900 (2019).

⁴ Minn. Stat. § 216F.04(e) (Extension permitted for cause), Minn. Stat. § 216B.243, subd. 5 (Extension with consent of parties or on PUC’s own motion and for good cause), Minn. R. 7829.1275 (2019).

⁵ Minn. Stat. § 216B.243, subd. 4 (2020).

⁶ Minn. Stat. § 216B.1691, subd. 9 (2020).

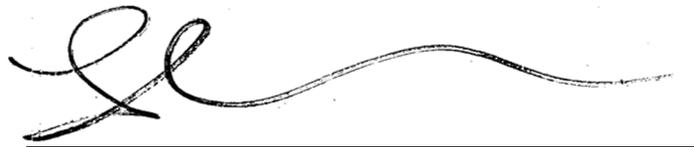
⁷ (“It shall be the duty of the judge t: (1) advise an agency as to the location at which and the time during which a hearing should be held to allow for participation by all affected interests.”)

⁸ The date will be decided at the prehearing conference with the input of the parties and PUC staff.

- (d) The Applicant may file proposed findings of fact and permit conditions no later than January 19, 2021.
- (e) The Department may file comments on Applicant's proposed findings of fact and permit conditions no later than February 2, 2021.
- (f) The Judge will issue the report ordered by the PUC no later than March 5, 2021.⁹

3. The Applicant may file a request to withdraw its applications with the PUC at any time. The Applicant, however, must inform the Administrative Law Judge in writing if it files a request to withdraw.

Dated: August 18, 2020



JIM MORTENSON
Administrative Law Judge

⁹ The PUC decision would then be expected no later than May 4, 2021, pursuant to Minn. R. 7850.3900.

August 18, 2020

See Attached Service List

Re: *In the Matter of the Applications of Three Waters Wind Farm, LLC for a Certificate of Need and Site Permit for the up to 201 MW Large Wind Energy Conversion System in Jackson County*
OAH 5-2500-36624
MPUC Docket Nos. IP-7002/CN-19-154, WS-19-576

To All Persons on the Attached Service List:

Enclosed and served upon you is the Administrative Law Judge's **THIRD CONTINUANCE ORDER** in the above-entitled matter.

If you have any questions, please contact me at (651) 361-7881, Anne.Laska@state.mn.us, or via facsimile at (651) 539-0310.

Sincerely,



ANNE LASKA
Legal Assistant

Enclosure

cc: Docket Coordinator

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
PO BOX 64620
600 NORTH ROBERT STREET
ST. PAUL, MINNESOTA 55164

CERTIFICATE OF SERVICE

In the Matter of the Applications of Three Waters Wind Farm, LLC for a Certificate of Need and Site Permit for the up to 201 MW Large Wind Energy Conversion System in Jackson County	OAH Docket No.: 5-2500-36624 MPUC Docket Nos. IP-7002/CN-19-154, WS-19-576
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Anne Laska certifies that on August 18, 2020, she served the true and correct **THIRD CONTINUANCE ORDER** by eService, and U.S. Mail, (in the manner indicated below) to the following individuals:

Last Name	First Name	Email	Company Name	Delivery Method
Behrends	Thomas	thomas.behrends@gmail.com	N/A	Electronic Service
Commerce Attorneys	Generic Notice	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DC	Electronic Service
Davis	Richard	Richard.Davis@state.mn.us	Department of Commerce	Electronic Service
Duehr	Jeremy	jduehr@fredlaw.com	Fredrikson & Byron, P.A.	Electronic Service
Fairman	Kate	kate.frantz@state.mn.us	Department of Natural Resources	Electronic Service
Felix Gerth	Annie	annie.felix-gerth@state.mn.us	N/A	Electronic Service
Ferguson	Sharon	sharon.ferguson@state.mn.us	Department of Commerce	Electronic Service
Hanson	Kipp	khanson@local49.org	International Union of Operating	Electronic Service
Howe	Kari	kari.howe@state.mn.us	DEED	Electronic Service
Kirsch	Ray	Raymond.Kirsch@state.mn.us	Department of Commerce	Electronic Service
Kromar	Karen	karen.kromar@state.mn.us	MN Pollution Control Agency	Electronic Service
Landess	Pat	pat@scoutcleanenergy.com	Scout Clean Energy	Electronic Service
Medhaug	Susan	Susan.medhaug@state.mn.us	Department of Commerce	Electronic Service
Meloy	Brian	brian.meloy@stinson.com	STINSON LLP	Electronic Service
Mortenson	James	james.mortenson@state.mn.us	Office of Administrative Hearings	Electronic Service
Overland	Carol A.	overland@legalelectric.org	Legalelectric - Overland Law Office	Electronic Service
Panait	Cezar	Cezar.Panait@state.mn.us	Public Utilities Commission	Electronic Service
Residential Utilities	Generic Notice	residential.utilities@ag.state.mn.us	Office of the Attorney General-RL	Electronic Service
Roos	Stephan	stephan.roos@state.mn.us	MN Department of Agriculture	Electronic Service
Rucker	Mike	mruckerb@gmail.com	Three Waters Wind Farm	Electronic Service
Seuffert	Will	Will.Seuffert@state.mn.us	Public Utilities Commission	Electronic Service
Shaddix Elling	Janet	jshaddix@janetshaddix.com	Shaddix And Associates	Electronic Service
Warzecha	Cynthia	cynthia.warzecha@state.mn.us	Minnesota Department of Natural Resources	Electronic Service
Wengierski	Mark	mark@scoutcleanenergy.com	Scout Clean Energy	Electronic Service