

**REPORT TO THE MINNESOTA PUBLIC UTILITIES COMMISSION
ON THE 2007 ANNUAL HEARING OF THE
POWER PLANT SITING PROGRAM
Docket Number E999/M-07-1579**

The Annual Hearing required by the Minnesota Power Plant Siting Act was conducted by the Minnesota Public Utilities Commission (the "Commission") at its offices on Thursday, December 27, 2007.

The annual hearing is intended to advise the public of matters relating to the siting of large electric power generating plants and routing of high voltage transmission lines and to afford interested persons an opportunity to be heard regarding any aspects of the Commission's activities, duties, or policies pursuant to the Power Plant Siting Act, Minnesota Statutes Chapter 216E or its Power Plant and Transmission Line Siting Rules, Minnesota Rules Chapter 7849.5020 to 7849.6500.

The official notice of the hearing is provided in Exhibit AH07-1. Additionally, exhibits include the EQB Monitor notice published on December 17, 2007, the affidavit of mailed notice on December 17, 2007 to the Power Plant Siting general list maintained by the Department of Commerce, and a list of registered persons attending the hearing. Notice was also posted on the Commission's web calendar. An audio tape of the proceeding is on file at the Commission.

Notice of the hearing indicated that the record would remain open for additional written comments until February 2, 2007. Subsequently, upon request, the written comment period was extended to February 16, 2007. A summary of the record of the proceeding follows.

Summary Minutes of Proceeding

The hearing was convened at 10:00 am. Approximately 20 individuals were present when the meeting commenced. In addition to Commission staff, Deborah Pile, Supervisor and Marya White, Manager of the Energy Facility Permitting unit at the Minnesota Department of Commerce (DOC), were present to assist in the hearing.

As moderator, PUC staff Bob Cupit read a comment he had received via email from Carol Overland prior to the meeting. Ms. Overland's comments focused on her perceived inadequacy of the public participation of the general public in these matters. Ms. Overland stated that she believed that the public had a better opportunity to voice their opinions and concerns when the facility permitting process was under control of the EQB when compared to the current system under the DOC and PUC. Ms. Overland also voiced her concerns about the gutted state of the Power Plant Siting Act and a wish for the reformation of this act. Ms. Overland also stated that she believed that informal process was not adequate. She believed that the process in the CAPX 2020 project handcuffs the public. She lastly stated that there is a lack of political initiative in the

current political environment to stop the gutting of Power Plant Siting Act (PPSA). (See attached Overland email.)

Deborah Pile addressed some of Ms. Overland's comments and stated that she did not believe that the shift of responsibilities from the EQB to DOC significantly changed the PPSA. She stated that basic procedures for the scoping and hearings are the same despite the change of agencies. Next Ms. Pile described both the informal and full review processes that are being employed by the Commission. She stated that the proposer can elect for the informal process given that all of the conditions are satisfied. Next Ms. Pile noted the uniqueness of the different projects facing the Commission. She stated that this uniqueness largely is a result of different degrees of combining the CON and routing permit procedures for a project. Ms. Pile also handed out two documents listing projects that were completed the previous year and current and anticipated projects for 2008.

Mr. Cupit described the situations when the informal processes may be used. He also pointed out that when an informal process is initiated any individual may be able to request a contested case. If the Commission grants this request then the informal process is not used. Representatives from GRE commented on their affinity for the flexibility of the informal process and its ability to adapt to unforeseen issues.

Paula Macabee, who represented environmental groups and landowners, offered a comment regarding when individuals will question a particular project. She wanted to draw attention to the fact that although it is traditionally thought that when landowners contest a project it is because they do not want the project in their back ground, this not entirely the case and that with projects where the policies supporting the project are in question landowners are much more likely to question a project. Landowner complaints regarding a project are not only NIMBY concerns but also policy-focused concerns. She stated that if a landowner is in agreement with a policy behind a project then they are less likely to contest a project that may infringe on their property.

Kristen Eide Tollefson asked what particular issues had to be addressed with the completed projects from the previous year. Pile and Cupit explained some of the particular challenges that were present with some of the completed projects from the previous year. This explanation showed the uniqueness associated with each project. Some specific examples from the previous year that were discussed in response to this question were the crossing the Minnesota River in the Appleton to Canby Transmission Line and a snowmobile trail issue that arose in the Tower project.

In addressing, the Tower project Cupit and Pile pointed to the fact that although this was an informal review an alternative route was developed with the aid of local citizens. Cupit used this example from the Tower project to illustrate the fact that under either review project an alternative route can still be considered. Cupit noted that these processes are flexible and because of this when an unforeseen issue does arise the process does not need to start over.

Next Ms. Pile discussed the local review process. She observed that local governments were most willing to do this permitting in transmission projects that were in conjunction with wind facilities. Next Pile discussed the standards that the PUC is developing in response to legislation allowing local government entities to assume jurisdiction in the permitting of small wind facilities. These standards could be altered as the counties see fit. Starting January 16, 2008 local governments will have authority to approve small wind facilities if they choose. Pile stated that the next step in this area will be to give local governments some information regarding wind siting.

Ms. Eide-Tollefson next asked about lessons learned concerning county wind projects. Pile responded that there was more concern as these wind project moved out of traditional wind project areas within the state. Concerns that citizen had regarding wind projects in areas of the state where they were new included the visual effects of such projects, the decrease in property values in more heavily populated areas, noise associated with these windmills, and questions about what types of wind rights must be sold. These concernns have led the DOC to realize that they should be trying to provide more information, possibly in the form of brochures, addressing these issues.

Projects Under Review

Moving to the fourth agenda item Ms. Pile showed where on the department's website information about projects currently under review could be found.

Paula Macabee asked a question about the role of the Environmental Impact Statement (EIS) and Environmental Report (ER) and their roles in the process. Ms. Pile replied that the ER in the Certificate of Need (CON) review looks at alternatives to the entire project. However the EIS in the siting and routing process looks at specific route alternatives for a project after need has been determined. A CON application requires an ER while the site and routing permit requires an EIS. If the CON and site or route applications are filed at the same time there can be a combination documents to satisfy both requirements. After this explanation, Ms. Maccabee commented that the process for ER is not as developed as the EIS procedure. She stated that she believed that there is should be a better method for the assessment of the proposed need of project. Ms. Macabee also stated she believed that there it would be very helpful if there were individuals with engineering backgrounds that could help share their expertise with individuals and environmental groups.

Next Ms. Pile continued to describe some specific projects that were being developed. She also pointed out unique difficulties that have arisen with some current projects.

Ms. Macabee voiced her concern about the alternatives to a pipeline experienced in the MinnCan pipeline project. She questioned whether any serious thought had been given to the alternatives to building the pipeline. Mr. Eknes of the PUC stated that the alternatives that were analyzed in MinnCan were ways that the pipeline would not need to be built. Mr. Eknes then stated that Ms. Macabee was probably concerned with the downstream effects that a pipeline may have.

Next, the current wind projects were discussed in general. Ms. Pile stated that more projects are of the larger variety. This means that these projects do not fall within the scope of local government approval.

Next Ms. Motz of the Commission discussed the commission's new website that she expected to be up and running in February 2008. She gave a general description of what the new website will probably look like. Ms. Eide-Tollefson inquired about whether members of the public would be testing the new website; and Ms. Motz responded in the affirmative.

Next Ms. Maccabee asked about whether it is possible for the public to receive any of the discovery information that DOC receives without becoming official parties to a proceeding. Ms. White replied to this that would be a problem logistically because of the volume of discovery documents. The DOC website could not handle all of these documents. Karen Hammel, representing the Attorney General's office for the DOC, added that she was not certain that the ALJ's and parties to a particular docket would respond favorably to such an idea.

Ms. Maccabee next followed up with a question about how non-parties could receive more information for a pending docket. Ms. Eide-Tollefson stated that parties can try to get on an interested person's list. Ms. White and Ms. Hammell noted that disclosing this information to these "interested person" would have to be approved by the ALJ and the other parties involved. Ms. Hammell also noted that on many of these dockets the DOC is not an official party to the proceeding. Ms. Hammell also reiterated that any sort of procedure such as the type being described by the parties here would have to have the approval of an ALJ.

Next Mr. Cupit asked those in attendance whether there any had prepared comments at this time. No comments were offered and next the meeting was opened for questions from those in attendance.

Ms. Maccabee asked whether there was any consideration for a public officer or advocate. She stated that she thought such a position was necessary because landowners are often unaware of their rights and the processes involved with these projects. Having this advocate available to answer questions would be extremely helpful for these landowners. Mr. Cupit replied that there was no statutory authority to create such a position in either the rules or statutes. Mr. Cupit also stated that perhaps the Attorney General's Office RUD could create such a position. Mr. Eknes also pointed out the difference in statutes pertaining to pipelines and transmission lines that does not include a prohibition of seeking a right of way easement for transmission projects.

Next a detailed discussion of CON analysis was initiated by a question from Ms. Eide-Tollefson. The question was centered on how the two parts of the CON analysis are related. Ms. White described the two parts of the CON. She stated that the first part of the CON focused on forecasting whether there is a need for a particular project. The second part of CON analysis centers upon whether the proposed facility meets the need in

the best possible manner. This discussion continued and ultimately developed a very detailed picture of the process and what steps and information go into CON analysis.

Ms. Eide-Tollefson also commented that the public is concerned about the process and the outcomes of these regulatory schemes. She stated that a more definite and specific set of rules is needed to aid the public in knowing how and when to participate appropriately. Ms. Pile stated that the rules do not change. The difficulty likely arises from the different degrees of combining the processes for different projects. She also stated that she has observed that generally around the state the public do not appreciate that one project varies from another (likely due to the fact that they may only be involved with one project). The department only explains that particular project at meetings with the public.

Ms. Eide-Tollefson also stated she was concerned about the fact there was no reference point for the public to compare processes for particular projects. She stated that with the EQB there had been guide books that outlined the process.

Bill Neuman stated that although there was not statutory authority for a public advocate there is statutory authority to advance public participation. Part of advancing public participation in his view was having the public able to understand these processes. He stated that he believed that there was statutory authority to maximizing public participation and he believes that there needs to be someone who can advocate for the public. Ms. Tollefson stated that a good example of this sort of advisor was when an AG met with the public and helped them understand how to fit into the process with out advocating any particular position. Bill thought that this sort of process could have avoided the types of failures that were experienced in the Chisago Case.

Bob Lindholm of Minnesota Power described three things that he believed have worked well in this area. First the certificate of need process is timely and working well. Second the flexibility of the alternative review process and in particular its ability to incorporate alternate routes when appropriate. He also commented on the ability of this process to identify stakeholders for a particular project. Third he thought that for smaller projects the alternative review process works well because it allows participation through local entities and can address issues. Ms. Eide-Tollefson voiced her appreciation for Mr. Lindholm's comments and Mr. Cupit stated that he has noticed that the utilities are taking the initiative in talking to the public before any formal processes are initiated.

There being no further comments or questions, the meeting was adjourned at 12:10 PM.

Written Comments Received After the Hearing

Two written comments were received during the comment period following the hearing. Summaries are provided below, and the complete comments, with the exception of lengthy attachments, are attached as exhibits.

January 1, 2008: Filed Comment: Jamie Schulz

Ms. Schulz was displeased that she was not afforded an opportunity to comment during the process reviewing a wind farm site in her area. (Staff assumes the project was the

Wapsipinicon Wind Farm.) Though the proposed project site did not include her property, she argues that there are environmental and possibly financial effects that should qualify adjacent property owners to be noticed and allowed to participate. She recommends that a right of adjacent landowners to receive notice be addressed in future project reviews. (See attached comment)

January 31, 2008: Filed Comment: George Crocker for North American Water Office

Mr. Crocker requested that NAWO's comments from the previous year's hearing be included in the record as continuing concerns. The following is the summary of NAWO's comments at the January 23, 2007 annual hearing. (See attached NAWO comment).

Mr. Michaud observes a fundamental flaw created by the transfer of environmental review of energy facilities to the Commissioner of the Department of Commerce. This appears to set up a conflict between statutory prescriptions for the Department's siting staff to assess environmental impacts without considering need, and for the Department's advocacy staff to specifically take a position on the question of need. This can create conflicts of interest for the Commissioner that can result in a potential bias of analysis in the environmental review. He further challenges the timing of environmental review, relating evidence of flawed timing in the Monticello Dry Cask Storage docket. And in closing, he notes that the changing circumstances of the understanding of the risks from impending global climate change and the rise of the desire for community owned energy projects, has elevated the need for the Commission to reconsider how it will evaluate these "non direct cost to ratepayer" factors in its decisions. Economic factors cannot be given precedence in decisions over these other vital societal interest factors.

Exhibits (attached)

AH07-1	Official Notice and Agenda, Affidavit of Mailed Notice
AH07-2	EQB Monitor Notice
AH07-3	PUC Weekly Calendar Notice
AH07-4	Hearing Attendance Registration
AH07-5	Prehearing Comment: Carol Overland
AH07-6	Filed Comment: Jamie Schulz
AH07-7	Filed Comment: George Crocker