

Subject: RE: Gro Wind application
From: "Pile, Deborah (COMM)" <Deborah.Pile@state.mn.us>
Date: Mon, 25 Oct 2010 13:36:16 -0500
To: "overland@legalectric.org" <overland@legalectric.org>
CC: "tmccorkell@co.rice.mn.us" <tmccorkell@co.rice.mn.us>

Dear Ms. Overland,

Thank you for bringing these Rice County projects to my attention. The Office of Energy Security has not evaluated these projects or made a size determination pursuant to Minn. Stat. 216F.011. I have discussed the situation with the county and anticipate receiving further information about the projects from the applicants shortly.

Sincerely,
Deborah Pile

From: Carol A. Overland [mailto:overland@legalectric.org]
Sent: Monday, October 25, 2010 12:08 PM
To: Pile, Deborah (COMM); RCPlanningZoning@co.rice.mn.us
Subject: Gro Wind application

Deb Pile, Julie Runkel and Trent McCorkell -

I'm looking at the agenda for the November 4th meeting. Has a Minn. Stat. 216F.011 Size Determination been made on this project? Would you please email me a copy?

In addition, as I add up the MW for the Gro Wind items on the attached agenda, it looks like at least 6MW to me (the turbines are not specified), above the County permitting threshold. That said, has there been notice of a Minn. Stat. 216F.012 Size Election? Would you please email me a copy?

Please provide any documentation fo Size Determination or request for Size Election to me via email, overland@legalectric.org, as above.

If you have any questions, please let me know.

Carol A. Overland
Attorney at Law

(not currently representing any client on this issue, but if/when that changes, I'll immediately notify all of you)

216F.011 SIZE DETERMINATION.

(a) The total size of a combination of wind energy conversion systems for the purpose of determining what jurisdiction has siting authority under this chapter must be determined according to this section. The nameplate capacity of one wind energy conversion system must be combined with the nameplate capacity of any other wind energy conversion system that:

- (1) is located within five miles of the wind energy conversion system;
- (2) is constructed within the same 12-month period as the wind energy conversion system; and
- (3) exhibits characteristics of being a single development, including, but not limited to, ownership structure, an umbrella sales arrangement, shared interconnection, revenue sharing arrangements, and common debt or equity financing.

(b) The commissioner shall provide forms and assistance for project developers to make a request for a size determination. Upon written request of a project developer, the commissioner of commerce shall provide a written size determination within 30 days of receipt of the request and of any information requested by the commissioner. In the case of a dispute, the chair of the Public Utilities Commission shall make the final size determination.

(c) An application to a county for a permit under this chapter for a wind energy conversion system is not complete without a size determination made under this section.

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216F.012 SIZE ELECTION.

(a) A wind energy conversion system of less than 25 megawatts of nameplate capacity as determined under section [216F.011](#) is a small wind energy conversion system if, by July 1, 2009, the owner so elects in writing and submits a completed application for zoning approval and the written election to the county or counties in which the project is proposed to be located. The owner must notify the Public Utilities Commission of the election at the time the owner submits the election to the county.

(b) Notwithstanding paragraph (a), a wind energy conversion system with a nameplate capacity exceeding five megawatts that is proposed to be located wholly or partially within a wind access buffer adjacent to state lands that are part of the outdoor recreation system, as enumerated in section [86A.05](#), is a large wind energy conversion system. The Department of Natural Resources shall negotiate in good faith with a system owner regarding siting and may support the system owner in seeking a variance from the system setback requirements if it determines that a variance is in the public interest.

(c) The Public Utilities Commission shall issue an annual report to the chairs and ranking minority members of the house of representatives and senate committees with primary jurisdiction over energy policy and natural resource policy regarding any variances applied for and not granted for systems subject to paragraph (b).

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