



November 15, 2012

Via Electronic Filing

Tricia DeBleeckere
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101

RE: RESPONSES TO PUC INFORMATION REQUEST #4
DOCKET NOS. IP6701/WS-08-1233 and CN-09-1186

Dear Ms. DeBleeckere:

New Era Wind Farm, LLC ("New Era") submits the attached responses to PUC Information Request #4, dated October 31, 2012, and respectfully requests a 60-day extension to provide additional responsive information.

As you are aware, New Era has recently undergone a change in the upstream ownership of the Project. A major focus of New Era is to strengthen and expand local participation in the Project. This effort began in earnest in the beginning of October, when I originally provided the PUC with notice of the change in name and upstream ownership of New Era.

I am currently leading negotiations on financing and capital structures in an effort to reach construction-readiness. These efforts are not yet complete, and, as such, New Era is unable to provide full responses to PUC IR #4 addressing how the ownership and financing structure complies with C-BED. At this time, the only known change to the Project involves a change in upstream ownership of New Era Wind Farm, LLC from American Wind Alliance, LLC to Peter J. Mastic Holdings II, LLC.

Because additional details regarding the ownership and financing structure are still being negotiated, New Era respectfully requests a 60-day extension to allow it to respond more fully to IR #4. New Era does not believe there is any harm caused by this delay, as the Project's C-BED status impacts the price paid under the PPAs and no such energy payments will be made until the Project is operational.

New Era has responded to IR#4 with information that is currently available and will provide additional information on or before January 15, 2013.

Please contact me at (507) 226-4800 if you have any questions.

Sincerely,

New Era Wind Farm, LLC

A handwritten signature in black ink, appearing to read "Peter Mastic". The signature is fluid and cursive, with a long horizontal stroke at the end.

Peter Mastic

- Non Public Document – Contains Trade Secret Data
 Public Document – Trade Secret Data Excised
 Public Document

New Era Wind Farm, LLC

Docket Nos.: IP6701/WS-08-1233/CN-09-1186
E-002/M-09-1349/M-09-1350

Response To: Tricia DeBleeckere

Information Request No. 4

Date Received: October 31, 2012

Response Date: November 15, 2012

Request No.	
4	<p>The Commission requests New Era Wind Farm, LLC (New Era):</p> <ol style="list-style-type: none"> <li data-bbox="284 703 1534 924"> <p>1) Provide an analysis on the new ownership structure in relation to Minnesota Statutes, §216B.1612 (2007), including specific references to the eligibility criteria and definition of “C-BED project” under subd. 2 (f).</p> <p>RESPONSE: New Era respectfully requests a 60-day extension to provide this information.</p> <li data-bbox="284 955 1534 1176"> <p>2) Provide an analysis on the new ownership structure in relation to Minnesota Statutes §216B.1612 (2011), including specific references to the eligibility criteria and definition of “C-BED project” under subd. 2 (h).</p> <p>RESPONSE: New Era respectfully requests a 60-day extension to provide this information.</p> <li data-bbox="284 1207 1534 1728"> <p>3) Specify, with detailed support, how (or if) New Era’s current financing and ownership structure complies with all subdivisions in Minn. Stat. 216B.1612 (2007) and Minn. Stat. 216B.1612 (2010), focusing on, but not limited to, Minn. Stat. 216B.1612, Subd. 2.(c) and (g) (2007) and Minn. Stat. 216B.1612, Subd 2. (c), (h) and Subd. 10 (2010).</p> <p>RESPONSE: New Era respectfully requests a 60-day extension to provide this information.</p> <ol style="list-style-type: none"> <li data-bbox="381 1501 1534 1728"> <p>i. Provide detailed information on how New Era’s current ownership structure (including information on parent company ownership) complies with Minn. Stat. 216B.1612 Subd. 2. (c) and (g)(1) (2007) and Minn. Stat. 216B.1612 Subd. 2 (c) and (h)(1) (2010). Detail company names and ownership percentages. Provide information on how the pre- and post-flip ownership structures factor into the information provided.</p>

Response by: Peter Mastic

List sources of information: _____

Title: CEO, New Era Wind Farm, LLC

Department: _____

Telephone: (507) 226-4800

RESPONSE: New Era respectfully requests a 60-day extension to provide this information.

- ii. Provide a current ownership flowchart, including parent companies, listing ownership percentages. Note any changes in structure from previous flow charts provided to the Department of Commerce or the Commission in Dockets 09-1349, 09-1350 or 09-1186.

RESPONSE: New Era respectfully requests a 60-day extension to provide this information.

- iii. Specify the names and ownership percentages of project owners which New Era does not classify as qualified owners pursuant to Minn. Stat. 216B.1612 Subd. 2 (c) (2007).

RESPONSE: Peter J. Mastic Holdings II, LLC is not a qualified owner under Minn. Stat. § 216B.1621, subd. 2 (c) (2007), and no revenues flowing to the Peter J. Mastic Holdings II, LLC will be counted in the C-BED analysis.

- iv. Provide detailed information on how New Era currently complies with Minn. Stat. 216B.1612 Subd. 2 (g)(2) (2007) and how (and whether) New Era could comply with Minn. Stat. 216B.1612 Subd. 2 (h)(2) (2010).

RESPONSE: New Era respectfully requests a 60-day extension to provide this information.

- v. Provide detailed information on how the owners outlined in 3.iii (detailing whether they are considered qualifying, or not) was used in determining compliance with 216B.1612 Subd. 2 (g)(2) (2007) and 216B.1612 Subd. 2 (h)(2) (2010).

RESPONSE: New Era respectfully requests a 60-day extension to provide this information.

- vi. Provide a revised spreadsheet (similar to information provided to the Department of Commerce in AWA Goodhue's January 2010 trade secret IR response) and detail on whether the New Era's ownership breakdown is actual (current) information or whether the information is the future structure anticipated at this time.

RESPONSE: New Era respectfully requests a 60-day extension to provide this information.

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- 4) Indicate whether New Era intends to seek a determination of C-BED eligibility from the Commissioner of Commerce, based on the project's final financing terms, before construction, pursuant to Minn. Stat. 216B.1612 Subd. 10(a) and if so, when New Era anticipates seeking the determination. If New Era does not intend to seek a determination of C-BED eligibility, please explain why you do not believe such a determination is required by Minn. Stat. 216B.1612, subd. 10(a), and any other reasons for not doing so.

RESPONSE: New Era continues to evaluate whether it will seek a final determination of C-BED eligibility. Pursuant to the C-BED statute, New Era may not seek a final determination of C-BED eligibility under Minn. Stat. § 216B.1612, subd. 10a (2010) until final finance terms are known, and, at this time, New Era does not have its final financing terms. Thus, until the terms are known, New Era is not able to state conclusively whether it will seek a determination. Its decision will be determined in large part by whether the structure of the financing deviates substantially from structure submitted in support of its initial determination and whether a final determination is required by New Era's financial partners as a condition to the financing.

The statutory requirement that C-BED projects must obtain a determination of C-BED eligibility based on final financing terms arose out of changes to Minn. Stat. § 216B.1612 enacted in 2010, after the MPUC made its determination regarding C-BED eligibility for this project. Minn. Stat. 216B.1612, subd. 10(b) exempts projects, such as this one, that obtained an initial C-BED determination prior to May 18, 2010, from having to also obtain a determination based on final financing terms. If New Era decides not to seek a final determination, New Era will rely on the statutory exemption.

- 5) Indicate whether New Era obtained a written notification from the Midwest Independent System Operator (MISO) interconnection queue before May 18, 2010; if notification was obtained please provide the notification in the response to this request.

RESPONSE: As discussed in Response #6 below, all MISO contracts entered into by AWA Goodhue LLC remain valid for New Era. The original interconnection queue requests (H061 and H062) for 39 MWs each at the Goodhue and Vasa substations were dated June 16, 2008. Attachment B to New Era's Response to PUC IR#2, in Docket Nos. E-002/M-09-1349 and M-09-1350, dated March 23, 2012, contains the original interconnection requests for H061 and H062. New Era continues to have two active queue positions for its 78 MW project that pre-date the May 18, 2010 enactment of the C-BED amendments. Accordingly, pursuant to Minn. Stat. § 216B.1612, subd. 10 (2010), New Era may elect either the 2007 or 2010 C-BED statute apply to the Project for the purposes of determining C-BED eligibility.

- 6) Indicate whether pursuant to MISO procedures, MISO contracts and documents provided for or obtained for AWA Goodhue will remain valid for New Era.

RESPONSE: All MISO contracts entered into by AWA Goodhue remain valid for New Era. The legal entity that was called AWA Goodhue remains in good standing under the laws of

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Minnesota, but it changes its name to New Era Wind Farm, LLC. This change in the name of the legal entity does not affect the validity of the MISO contracts.

- 7) Provide an update as to New Era's interconnection agreement status with MISO.

RESPONSE: The Generator Interconnection Agreements ("GIAs") remain in full force and effect, and do not require consent for a change in upstream ownership. The GIAs and the related Facilities Construction Agreements that govern the funding and completion of network upgrades and other interconnection requirements are known by MISO as H061 and H062.

MISO, GRE and NSP have been provided notice of the new upstream ownership, and the name change to New Era Wind Farm, LLC. Under the FCAs for H061 and H062, approximately \$3.8 million has been funded to pay for two switching stations that are the long lead time interconnection requirements. The H062 switching station was completed by GRE nearly a year ago and is located just north of Goodhue MN. The H061 switching station was recently completed by NSP and is located in Welch MN.

New Era will construct two switchyards at the edges of the wind farm site in connection with the construction of the wind farm. The switchyards are expected to be completed in 3Q2013. Approximately \$300,000 of metering equipment will be installed by NSP and GRE in those switchyards. The installation of this metering equipment is the principal remaining task necessary to interconnect the wind farm to the grid.

- 8) Provide an update as to the status of AWA Goodhue's PPA with Xcel Energy, including whether: the Seller is in default under the provisions Article 12 or any other relevant article of the PPAs, is paying delay damages, actual damages, or making any other damage payments and whether the Seller has invoked force majeure (and any associated reasoning) under Article 14 or any other relevant article of the PPAs.

RESPONSE: The Renewable Energy Purchase Agreement between Northern States Power Company and New Era remains in full force and effect. On December 6, 2011, New Era delivered written notice to NSP declaring a Force Majeure under Article 14 of the PPA for its failure to obtain all necessary state and local permits despite its exercise and diligence to obtain them. Under Article 14 of the PPA, any action or inaction by a Governmental Authority (as defined in the PPA to include state and local governments) that prevents or delays the project's performance under the PPA, despite the Project's efforts to obtain such permits, constitutes a Force Majeure. Section 14.2 of the PPA provides that New Era shall not be responsible or liable for any delay or failure in its performance, and such delay and failure shall not become an Event of Default, to the extent such delay or failure is caused by Force Majeure. New Era has not received notice that it is in default under provisions of Article 12 or any other relevant article of the PPA.

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- 9) Provide any and all information regarding New Era's plan to modify or revise the PPA with Xcel Energy.

RESPONSE: Although the Project remains in Force Majeure, New Era believes it needs to reach an understanding with NSP regarding the negative impact the Force Majeure has had on the project in order to facilitate the necessary construction financing of the Project. The PPA calls for resetting milestones taking into account the impact of any force majeure. New Era has discussed with NSP modified PPA milestones that give effect to the delays on the Project's milestones caused by the Force Majeure.

- 10) Provide an update to the status of the Avian and Bat Protection Plan including a timeline of any and all expected forthcoming milestones regarding the ABPP and developments, filings, and any other activity, including work with the USFWS and the pending Eagle Incidental Take Permit.

RESPONSE: On November 2, 2012, New Era filed the Avian and Bat Protection Plan (ABPP) with the Commission and an application for a programmatic, non-purposeful Eagle Take Permit with the United States Fish and Wildlife Service. New Era is prepared to present its ABPP to the Commission at its earliest convenience, as its approval is necessary for New Era to begin construction of the project in 2013.

- 11) Explain why New Era believes a site permit transfer is not necessary under Minnesota Rule 7854.1400 beyond the explanation that the existing AWA Goodhue, LLC was amended and not dissolved.

RESPONSE: A site permit transfer is unnecessary and inapplicable here because no transfer has occurred. In support of a request for approval of the permit transfer under Minn. R. 7854.1400, the permittee must provide information regarding the "person to whom the permit is to be transferred." Minn. R. 7854.0100, subp. 8, defines a "person" to include any "entity, public or private, however organized". Here, the permittee, f/k/a AWA Goodhue LLC, is a limited liability company formed under Minnesota law. The limited liability company changed its name from AWA Goodhue LLC to New Era Wind Farm, LLC. It is a widely accepted corporate law principal that a change of name only gives the entity a new name and does not form a new entity. 18A Am. Jur. 2d Corporations § 240. The Rules do not contemplate that PUC approval is required for a name change, only for a transfer. Therefore, because the permittee is the same person (i.e., same legal entity), no transfer has occurred and no approval is required. The Secretary of State filings supplied in response to PUC IR#1 and 2, dated October 12, 2012, provide evidence confirming that the legal entity has not changed.

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