

Item #10 – New Era Wind, LLC / Xcel Energy

I. Revised Commission Decision Alternatives

1. Abeyance Request by New Era

- A. Grant the request, take no action on any Goodhue matter and request that New Era file a monthly update on the status of the project overall, PPA negotiations, or any other project developments.
- B. Deny the request to hold the matters in abeyance.

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- C. Delay the consideration of the matter before the Commission as requested by New Era.
- D. Take no action on the request to delay the matter by New Era.

2. Power Purchase Agreement and the Certificate of Need

Approve and Recertify

- A. Approve the in-service change without further rehearing or recertification and close the Certificate of Need Docket.

Options to Request Further Analysis on the PPA and CN Dockets

- B. Refer the PPA and Certificate of Need dockets to the OAH for a contested case hearing on outstanding issues for further record development, including:
 - i. Whether the Project currently qualifies as a C-BED project.
 - ii. Whether the election to have a C-BED determination conducted at final financing changes the ability of the Project to conform to the Certificate of Need criteria in Statute and Rule.
 - iii. Whether the Certificate of Need should be recertified.
 - iv. Whether the Project changes would affect the Project's ability to conform to the Certificate of Need criteria in Statute and Rule.
- C. Manage the outstanding issues in the reopened Certificate of Need through a comment and reply process.

Make a Finding on the Project's CBED Status, and Options to Request Further Analysis on the Remaining Issues in the PPA and CN Dockets

- D. Determine that enough information exists today to find the project is currently not a C-BED project and therefore, request parties show cause why the CN should not be revoked.
- E. Determine that enough information exists today to find the project is currently not a C-BED project and therefore, find that New Era no longer fulfills 7849.0120 (C) and revoke the CN without prejudice.
- F. Determine that enough information exists today to find the project is currently not a C-BED project and request additional analysis be conducted on the Certificate of

Need docket.

- i. Refer the matter to the OAH for further development on whether a Certificate of Need should be recertified.
- ii. Manage the question of whether a Certificate of Need should be recertified through the comment and reply process.

Transfer Provision Findings

- G. Find that the project changes violated the 216B transfer provision and invalidate the PPA.
- H. Take no action on whether the project violated 216B.1612 Subd. 3 (c)

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- I. Find that the project violated the Minn. Stat. 216B.1612 Subd. 3 (c) transfer provision and the transfer of power purchase agreement that occurred is prohibited.
- J. Do not recertify the Certificate of Need due to New Era's failure to demonstrate that it will comply with the Commission's orders, and failure to show that it is prepared to move forward with the Project for which the Certificate of Need was obtained, including the failure to specify a current in-service date.

3. Site Permit and the Avian and Bat Protection Plan

- A. Find that the responses provided by New Era are sufficient and approve the ABPP.
- B. Request New Era provide a more comprehensive response to the request by the Commission in its March 20 Order that required New Era to investigate and file responses to the claims made by the public.
- C. Request a summary of the March 27, 2013 site visit be provided by New Era.
- D. Request a summary of the March 27, 2013 site visit be provided by the DOC EFP staff.
- E. Suspend the site permit.
- F. Initiate a revocation process.
- G. Revoke the site permit.
- H. Take no action.
- I. Take some other action.

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- J. New Era has fourteen days from the date of this Order to surrender its Site Permit or to show cause that it intends to begin construction by August 23, 2013, and that the Site Permit should not be revoked. The Applicant shall demonstrate that it is able to commence construction of the Project by August 23, 2013.
- K. In the event that by August 23, 2013 New Era has neither surrendered the Site Permit nor filed an CN Exemption Petition, the Commission hereby gives notice of its intent to revoke.