

September 11, 2018

Daniel P. Wolf, Executive Secretary
Minnesota Public Utilities Commission
127 7th Place East, Suite 350
St. Paul, MN 55101-2147

Filed electronically via edockets.state.mn.us

Re: In the Matter of the Application for Freeborn Wind Energy, LLC for a Large Wind Energy Conversion System Site Permit for 84 MW in Freeborn
County Docket No. MPUC IP-6946/WS-17-410

Dear Mr. Wolf:

Freeborn Wind Energy, LLC (Freeborn) and others have filed comments in this docket regarding the interpretation of Minnesota's noise standards, as applied to Large Wind Energy Conversion System (LWECS) projects. The Minnesota Pollution Control Agency (MPCA) has the authority to adopt or amend state noise standards (Minn. Rules Ch. 7030) under Minnesota Statutes 116.07. This letter is intended to help the Commission understand the MPCA's position regarding the application of the state noise standards to LWECS projects.

First, Freeborn and other wind developers contend that LWECS projects meet the state noise standards in Minn. Rules Ch. 7030.0040 as long as the noise generated from any individual turbine, or a combination of turbines, is below the applicable noise standard, absent the consideration of other sound or noise sources. The MPCA disagrees with this position. The plain language of the adopted standards support the MPCA's position, as the scope of the standards reads "These standards describe the limiting *levels of sound* established...for the preservation of *public health and welfare*." (Minn. Rule 7030.0040, emphasis added). This position is consistent with the letter sent from the MPCA to the Department of Commerce (DOC) on October 8, 2012, where the MPCA states our interpretation of standards as health-based standards for *total, ambient* sound. Thus, the MPCA recommends that the Commission should determine compliance of LWECS projects under the state noise standards by determining if *total* sound levels at nearby residences or other receptors – that is, existing sound levels plus the additional noise from a given turbine or LWECS project – exceed the standards in Minn. Rules Ch. 7030.0040.

We understand that the Commission and the DOC may have, or appear to have, applied the state noise standards in Minn. Rules Ch. 7030 differently in the past for some LWECS site permit actions. Nevertheless, as stated above, the MPCA has historically, and consistently, interpreted and applied said noise standards for *total* sound. The total sound levels at a residential receptor, or any receptor, should meet state standards as laid out in Minn. Rules Ch. 7030.0040, regardless of the source(s) contributing to the total sound levels.

The MPCA also recommends that the Commission continue to include compliance with the state noise standards in its site permits for LWECS projects. Maintaining the compliance provision ensures that a state agency retains regulatory authority to compel compliance with the state noise standards. Since the MPCA for noise standard exceedances would be very difficult. Currently, the MPCA only engages with facilities on compliance with noise standards for facilities that have an air quality permit from the MPCA. In the case of LWECS projects, we do not have a regulatory relationship with LWECS project developers or owners, and would have a very difficult time enforcing the state noise standards on LWECS project developers or owners. The Commission's siting permits include a provision requiring compliance with the state noise standards, which provides a direct mechanism to ensure ongoing compliance.

Finally, the MPCA finds that the Department of Commerce's proposed a reasonable "cause or contribute" approach to address compliance in situations where ambient/background sound is already near or exceeding state standards at one or more nearby residential receptors. The MPCA worked with the Department of Commerce on the approach, and it represents the approach the MPCA uses for the consideration of total, ambient sound standard. Noise from individual wind turbines, LWECS projects in general, or other non-natural sources may only comprise a small fraction of the *total* sound level; completely restricting noise from these projects would, therefore, be an undue burden to developers and utilities. We believe EERA's proposed approach, which allows individual turbines or LWECS projects to contribute to a total sound of no greater than one dBA above the relevant noise standard (as described in Minn. Rules Ch. 7030.0040), is reasonable and appropriate, and that the Commission should apply the approach to siting permits, going forward.

The MPCA appreciates the opportunity to provide this feedback. If you have any questions, feel free to contact me directly at 651-757-2500 or Frank.Kohlasch@state.mn.us.

Sincerely,



Frank L. Kohlasch, Manager
Air Assessment Section
Environmental Analysis and Outcomes Division

FLK:cbg

cc: John Wachtler, DOC
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