

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE REQUEST)
FOR A DECLARATORY RULING)
BY PPM ENERGY, INC.) # _____
)
)

Petition for Declaratory Ruling

PPM Energy, Inc. (PPM) hereby petitions the Commission for a declaratory ruling as demonstrated herein. PPM is currently developing wind energy projects in Brookings County, South Dakota, under a permit from Brookings County and is seeking the Commission’s guidance, through this Petition for Declaratory Ruling, as to the necessity for a permit on the facts as here outlined and further developed.

I. Facts

PPM, through its wholly-owned subsidiary, is developing a 150 MW project, a portion of which is located in Lincoln County, Minnesota and the remaining 55.5 MW located in Brookings County, South Dakota, called the MinnDakota Project. MinnDakota consists of 100 towers utilizing GE 1.5 MW turbines. PPM has an agreement with Xcel Energy to purchase the full output from the project. The project is being erected and will become commercially operable in 2007. The project will utilize two interconnect agreements which are designated by the Midwest Independent System Operator as G176 and G255.

PPM previously secured a 99 MW Conditional Use Permit from Brookings County to support the South Dakota portion of the MinnDakota project. PPM Energy is utilizing 55.5 MW of this permit to support the MinnDakota project with the balance being unused.

PPM currently plans to build another 43.5- 55 MW in Brookings County (“Buffalo Ridge I”). The Buffalo Ridge I project’s nearest turbines would be over two miles from the nearest MinnDakota turbines. Buffalo Ridge I would be erected and become commercially operable as early as 2008. Buffalo Ridge I may use a different turbine type than was used at MinnDakota.

PPM recently secured a Conditional Use Permit from Brookings County for 12 MW to support the Buffalo Ridge I project. PPM has filed an application to increase the MW in this permit to 55 MW with a final decision expected in early June.

While the two projects would be owned by PPM Energy, they are separate and distinct projects. In particular,

- The projects are expected to have different conditional use permits and other permits to support their development.
- The projects will occupy different sites with approximately two miles of separation between the nearest turbines.
- The output of the two projects will be sold under separate power purchase agreements
- The projects will be erected and become commercially operable in different years.
- The projects will likely utilize different turbines.
- The projects will be individually financed.
- The projects will have separate and unique construction contracts.
- The projects will be organized into separate business organizations.
- The projects will have dedicated feeder and collection lines.
- The projects will be separately metered.
- The projects will have separate profit and loss statements
- The projects will involve different landowners

Wind facility operations and maintenance workers typically manage several projects and in many cases these projects are owned by different companies. As a result, this is not a good indicator of whether a project is commonly managed or integrated. In the case of Buffalo Ridge I and MinnDakota, the projects will involve similar operations and maintenance crews.

As previously indicated, MinnDakota will utilize MISO interconnect agreement G176 (100 MW) and Buffalo Ridge I will not. The two projects will both utilize MISO Interconnect Agreement G255 (105 MW), which PPM will seek to bifurcate. Despite using the G255 interconnection agreement, the two projects will not be integrated but will, in fact, be separately metered and will have separate and dedicated collection and feeder lines.

The feeder lines for both projects will be separate. The projects will, however, share common overhead 34.5 kV transmission structures for approximately 7 miles. On one side of the overhead transmission structure will be a dedicated circuit carrying power from the MinnDakota project and on the other side of the structure will be a dedicated circuit carrying power from Buffalo Ridge I. Again, there is no integration of the power on the structures.

PPM needs permitting certainty in the near term for the Buffalo Ridge I wind project in order for turbines to be allocated to the project. PPM's 2008 turbines are currently being allocated to projects and this process will conclude in the next couple of months. In addition, in order for PPM to develop the Buffalo Ridge I project for 2008 it will need to be developed at a size over 50 MW to capture economies of scale. Obtaining the Commission's guidance on the permitting requirements, on an expedited basis if possible, will allow PPM to determine the course of the Buffalo Ridge I project for 2008.

II. Applicable law

SDCL § 49-41B (the siting law) provides for the Commission's jurisdiction in matters of permitting and siting wind energy facilities in South Dakota.

SDCL § 49-41B-2 (12) "Wind energy facility," a new facility, or facility expansion, consisting of a commonly managed integrated system of towers, wind turbine generators with blades, power collection systems, and electric interconnection systems, that converts wind movement into electricity and that is designed for or capable of generation of one hundred megawatts or more of electricity. A wind energy facility expansion includes the addition of new wind turbines, designed for or capable of generating twenty-five megawatts or more of electricity, which are to be managed in common and integrated with existing turbines and the combined megawatt capability of the existing and new turbines is one hundred megawatts or more of electricity. The number of megawatts generated by a wind energy facility is determined by adding the nameplate power generation capability of each wind turbine.

SDCL § 49-41B-4. No utility may begin construction of a facility in the state on or after July 1, 1979, without first having obtained a permit issued with respect to such facility by the Public Utilities Commission pursuant to this chapter. No such permit is required for an associated facility to be constructed for the purpose of transporting water if the water management board has issued a permit to appropriate water for the use to be made by that facility. Any facility, with respect to which a permit is required, shall thereafter be constructed, operated, and maintained in conformity with such permit including any terms, conditions, or modifications contained therein.

PPM requests that the Commission clarify whether PPM is required to have a siting permit from the state for Buffalo Ridge I, for a project over 43.5 MW but under 55MW, based upon the facts as outlined and developed. Alternatively, if the two projects are considered one project, does the 12 MW increment between between 43.5 MW and 55 MW meet the definition of the 25 MW project expansion not requiring a state permit?

Conclusion

Applicant wherefore requests that the Commission open a docket, take testimony if required, and finally determine whether a siting permit is necessary on the facts portrayed herein.

Dated this _____ day of May, 2007.

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BY: _____

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