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South Dakota

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August 7, 2020

Patricia Van Gerpen
Executive Director
SD Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501

RE: Docket EL18-003, In the Matter of the Application by Dakota Range I, LLC and Dakota Range II, LLC for a Permit of a Wind Energy Facility in Grant County and Codington County, South Dakota, for the Dakota Range Wind Project, Staff Letter Requesting Further Review of Material Change Request

Ms. Van Gerpen,

On July 31, 2020, Xcel Energy filed a request of material change pursuant to Condition 22 of the Final Decision and Order Granting Permit to Construct Wind Energy Facility (Permit) issued by the Commission on July 23, 2018, for the Dakota Range Wind Project. Xcel Energy's material change request is to change the turbine model for eight of the seventy-two, Vestas V136-4.2 MW permitted wind turbines. For seven turbines, Xcel plans to use the Vestas V136-3.6 MW turbine model. For the remaining turbine, Xcel plans to use the Vestas V120-2.2 MW wind turbine.

Condition 22 of the Permit states, in part: "[o]nce [the material change request is] received, the information would be reviewed by Commission staff, and Commission staff will have 10 calendar days to request further review." The condition further states: "[i]f further review is requested, the Commission will issue a decision regarding Applicant's request at its next regularly scheduled Commission meeting, subject to notice requirements, after the request for further review is made by Commission staff." This letter is intended to be Commission staff's (or Staff's) request for further review of Xcel's request for material change.

Staff's request for further review is not due to immediate concerns Staff has regarding the filing. Rather, since the Permit was issued after a contested case proceeding Staff believes it is best to bring the matter before the Commission in case any intervenors want to provide comments to the Commission on the request. Staff is currently reviewing Xcel's material change request and will provide our recommendation once the review is complete.

Finally, Staff notes that Condition 22 of the Permit could be read as only allowing for changes in turbine locations pursuant to that condition. If the Commission interprets Condition 22 as such, Staff recommends that the Commission review Xcel's request for turbine model change under Condition 24 of the permit, which states:

The terms and conditions of the Permit shall be made a uniform condition of construction, subject only to an affirmative written request for an exemption addressed to the Commission. A request for an exemption shall clearly state which particular condition should not be applied to the property in question and the reason for the requested exemption. The Commission shall evaluate

such requests on a case-by-case basis, which evaluation shall be completed within 60 days unless exigent circumstances require action sooner.

Should Xcel's request be processed under Condition 24, the Commission's order would exempt a portion of Condition 2 that requires Xcel to use the turbine model identified in the Application. The Commission's exemption would be specific to the eight turbines that will use a different model than the model identified in the Application. For reference, Condition 2 states:

Applicant shall construct, operate, and maintain the Project in a manner consistent with (1) descriptions in the Application, (2) Application Supplements, (3) responses to any data requests, (4) the Final Decision and Order Granting Permit to Construct Wind Energy Facility, Attachment A – Permit Conditions, (5) any applicable industry standards, (6) any permits issued by a federal, state, or local agency, and (7) evidence presented by Applicant at the evidentiary hearing.

Even though Condition 24 allows more time for review, Staff should be able to complete our review prior to the next Commission meeting if Xcel timely responds to our data requests. Staff believes it is reasonable to interpret Condition 22 as either applying to any turbine adjustments (including a turbine model change) or only applying to turbine location changes. As such, Staff defers to the Commission as to what Permit condition Xcel's request should be processed under.

Sincerely,

A handwritten signature in black ink, appearing to read "Darren Kearney", with a stylized flourish at the end.

Darren Kearney
Staff Analyst