



Report on the Minnesota Power Plant Siting Act under Minnesota Statutes, Chapter 216E

December 21, 2018

Minnesota Public Utilities Commission
121 7th Place East, Suite 350
Saint Paul, Minnesota 55101-2147
mn.gov/puc

*To request this document in another format such as large print or audio, call 651.296.0406 (voice).
Persons with a hearing or speech impairment may call using their preferred Telecommunications Relay
Service or email consumer.puc@state.mn.us for assistance.*



Contents

Reporting Requirement 2

Focus of this Report 2

Reporting Agency Unit 3

Agency Organization – Commission and the Department of Commerce Energy Environmental Review
and Analysis Unit..... 3

Program Expenditures and Budget Overview..... 4

Public Information and Participation..... 5

Operations and Activities in Biennium 6

Conclusions 9



Reporting Requirement

Statutory Reporting Requirement

Minnesota Statutes (2018), Section 216E.18, subdivision 1 requires the Public Utilities Commission (Commission) to file a report with the Legislature at the end of each even-numbered year regarding the Commission's operations, activities, findings, and recommendations concerning the Minnesota Power Plant Siting Act (Minn. Stat. Chapter 216E). The Report must also contain information on the amounts paid in permit application fees and assessments pursuant to this section of law.

Costs of Preparing Report

Pursuant to Minnesota Statutes (2018), Section 3.197, it is estimated that the costs incurred by the Minnesota Public Utilities Commission in preparing this Report are minimal. Special funding was not appropriated for the costs of preparing this report.

Focus of this Report

This report specifically addresses the Commission's responsibilities for the siting and routing of large electric energy facilities.

In 1973 the Minnesota Legislature passed the Power Plant Siting Act. Minnesota Laws 1973, Chapter 591, codified at Minnesota Statutes § 116C.51 through 116C.69, and re-codified in Chapter 216E in 2005. The Power Plant Siting Act requires that any person who wants to build a Large Electric Power Generating Plant (LEPGP) or a High Voltage Transmission Line (HVTL), as those terms are defined in the Act, is required to obtain state approval for a specific site for the plant or a specific route for the transmission line.

The jurisdiction for power plant siting and transmission line routing was transferred from the Minnesota Environmental Quality Board (MEQB) to the Commission by 2005 legislation (Laws of Minnesota 2005, Chapter 97). The 2005 legislation also transferred jurisdiction for wind farm siting (Chapter 216F) and pipeline siting (Chapter 216G) from the MEQB to the Commission. These separate energy-related jurisdictions had been administered in conjunction with the power plant siting and transmission line routing jurisdiction under a single program at the MEQB, labeled the Power Plant Siting Program.

The transfer of jurisdiction from the MEQB to the Commission was made to enhance administrative efficiency. Prior to 2005, the determination on whether a large energy facility was 'needed' was made by the Commission and the determination on 'where' the facility should be located was determined by the MEQB. The transfer consolidated the permitting and planning requirements for large energy



facilities into a single regulatory agency. The previous Commission/MEQB split decision-making authority caused some confusion among the public and sometimes led to delays in permitting. Additionally, enabling the two separate processes to develop in parallel was intended to achieve time and cost efficiencies. Consolidation benefits have arisen from the Commission's jurisdiction of electric generation resource planning (Minn. Stat. § 216B.2422) and electric transmission planning (Minn. Stat. § 216B.2425), in which environmental and locational factors can be considered jointly.

Reporting Agency Unit

The Commission's Energy Facilities staff manages state oversight of proposals to construct or modify large energy facilities in Minnesota, which include fossil fuel electric generation units, transmission lines, solar power generation, wind power generation units, and gas and petroleum facilities. The Commission's jurisdiction encompasses Certificate of Need as well as Site or Route Permits. Applications for projects subject to the Commission's jurisdiction are electronically filed with the Commission in compliance with state statutes and administrative rules. Joint processing of applications for a Certificate of Need and a Site or Route Permit is allowed. The Commission's procedures for review of proposed large energy facilities incorporate compliance with the Minnesota Environmental Policy Act and provide for broad spectrum public participation, including timely public notice and multiple opportunities for public comment. In addition to the review of permit applications for large energy projects, the Public Utilities Commission has specific jurisdiction related to electric transmission planning. Energy Facilities staff also actively participate in regional transmission planning and coordination efforts conducted by the Midcontinent Independent System Operator (MISO) and the associated Organization of MISO States (OMS) a non-profit, self-governing entity that coordinates state regulatory participation, representation and oversight of regional transmission issues, as well as tracking relevant activities at the Federal Energy Regulatory Commission.

Agency Organization – Commission and the Department of Commerce Energy Environmental Review and Analysis Unit

At the same time the Power Plant Siting Act jurisdiction was transferred to the Commission (in 2005), the staff supporting the Power Plant Siting Program at the MEQB were moved to the Division of Energy Resources (DER) within the Minnesota Department of Commerce. See Minn. Stat. § 216E.03, subd. 11. This staff, the Energy Environmental Review and Analysis unit (EERA), is directly administered by the Director of the DER. The EERA unit assists in compiling the Commission's record and provides comments on Commission decisions regarding permit applications. The EERA prepares environmental reports, assessments or impact statements, when appropriate. The EERA also provides technical assistance to the Commission on facilities-related matters. The EERA staff typically retains 10 full time employees.



To facilitate this unique dual-agency arrangement, the Commission was granted authority to retain Energy Facility Permitting staff to coordinate with the EERA unit, provide public information and assistance, advise the Commissioners prior to decisions, and ensure sound record development. The defense of its permit decisions in the Court of Appeals remains a Commission responsibility. Commission costs to administer its actions on siting/routing dockets are recovered from fees charged to applicants. Currently the Commission has the equivalent of 4 full time employees including the Public Advisor that support this program.

Program Expenditures and Budget Overview

The EERA unit independently manages application fees and direct assessment authorities, and, upon request, has provided the following information:

Biennial Expenditures

Program costs included "Necessary and Reasonable Costs Incurred by Permitting" and "Activity and Program Costs." There were no general fund expenditures.

Necessary and reasonable costs must be paid by permittees to cover costs incurred in acting on a permit application. For power plants and transmission lines, see Minn. Statute § 216E.18 subd. 2, 2a, Minn. Rule Part 7850.1800; for wind farms, Minn. Statute § 216F.05, Minn. Rule Part 7854.1500; and for pipelines, Minn. Statute § 216G.02, subd. 3, Minn. Rule Part 7852.4000.

Activity and program costs are paid by a general assessment against utilities as authorized by Minn. Statute § 216E.18, subd. 3.

Expenditure Type	FY 2017	FY 2018	FY 2017-2018
Necessary and Reasonable Costs Incurred by Permitting	\$4,759,278	\$2,954,992	\$7,714,270
Enbridge Line 3 Replacement	\$3,152,333	\$2,253,432	\$5,405,765
Enbridge Sandpiper	\$1,067,240	\$0	\$1,067,240
All Other Projects	\$539,705	\$701,560	\$1,241,265
Activity and Program Costs	\$1,038,233	\$1,097,751	\$2,135,984
Total	\$5,797,511	\$4,052,743	\$9,850,254



Permitting expenditures were significantly higher than normal in FY 2017 and FY 2018 due to the unusual expenses surrounding the Enbridge pipeline projects (noted in blue). This figure is typically difficult to predict due to the variable number of projects in a given year and their relative complexity. For example, projects requiring an Environmental Impact Statement (EIS) or a Comparative Environmental Analysis (CEA) often require the additional services of an external consultant, adding to the necessary and reasonable costs. These projects usually also include expenses for contested case hearings.

Looking forward, in FY 2019 an EIS is being prepared for the Huntley-Wilmarth 345 kV Transmission Project, and an EIS is being prepared for the Dodge County LWECs and 345 kV Transmission Project. In FY 2020, EERA will be preparing an EIS for the Plum Creek LWECs and 345 kV Transmission Project. Additional major projects are in various stages of pre-application review.

For the most part, activity and program costs for FY 2017 and FY 2018 were fairly representative of expected program expenses, and consistent with recent fiscal years.

Public Information and Participation

The 'on-the-ground' consequences of the state's policies establishing the public interest in the construction of needed large energy facilities can affect many landowners, communities, governmental agencies and other entities. The Power Plant Siting Act emphasizes a principle of broad spectrum public participation. The Commission and the EERA unit manage the siting/routing programs with a strong emphasis on this principle. While the two agencies continue to provide substantial notice via regular mail, web-based information on the Commission and Department websites contains useful public guidance, and is continually updated.

In 2012, the Commission added a Public Advisor position to enhance the public's ability to effectively participate in Commission proceedings, particularly those involving facilities permitting. In addition, the Commission has authorized the EERA unit to appoint project specific advisory task forces that include affected area residents and local officials to assist in the environmental review of a proposed facility when necessary.

The Power Plant Siting Act also requires the Commission to hold an annual hearing to advise the public of matters relating to the siting of large electric power generating plants and routing of high voltage transmission lines and to afford interested persons an opportunity to be heard regarding any aspects of the Commission's activities, duties or policies.



Operations and Activities in Biennium

Operations: Permits Processed

The following table shows the number and type of projects permitted or amended for fiscal years 2017 and 2018:

Energy Facility	FY 2017	FY 2018	FY 2017-2018
Power Plants	0	0	0
Transmission Lines ¹	1	1	2
Pipelines and Pipeline Amendments ²	3	2	5
Wind Farms ³	2	3	5
Transmission Line Amendments & Minor Alterations	0	0	0
Wind Permits & Wind Permit Amendments ⁴	1	2	3
TOTAL	7	8	15

Operations: Total Permitted Wind Capacity

The following table and chart show the total megawatts of permitted wind energy for FY 2017-2018 and FY 2009-2018. Minnesota’s current installed wind generation capacity is approximately 3,699 MW⁵. Repowered wind farm projects are projects that were already producing power under previously approved Commission permits and were included in previous totaled installed capacity figures. Repowered projects are reviewed under the permit amendment provisions of Minn. Rule Part 7854.1300.

	FY 2017	FY 2018	FY 2017-2018
Permitted New Wind Generation Capacity, Megawatts (MW)	505.1	328.6	833.7
Repowered Wind Farms, MW	0	207.75	207.75
Total Permitted Wind Generation Capacity, MW			1,041.45

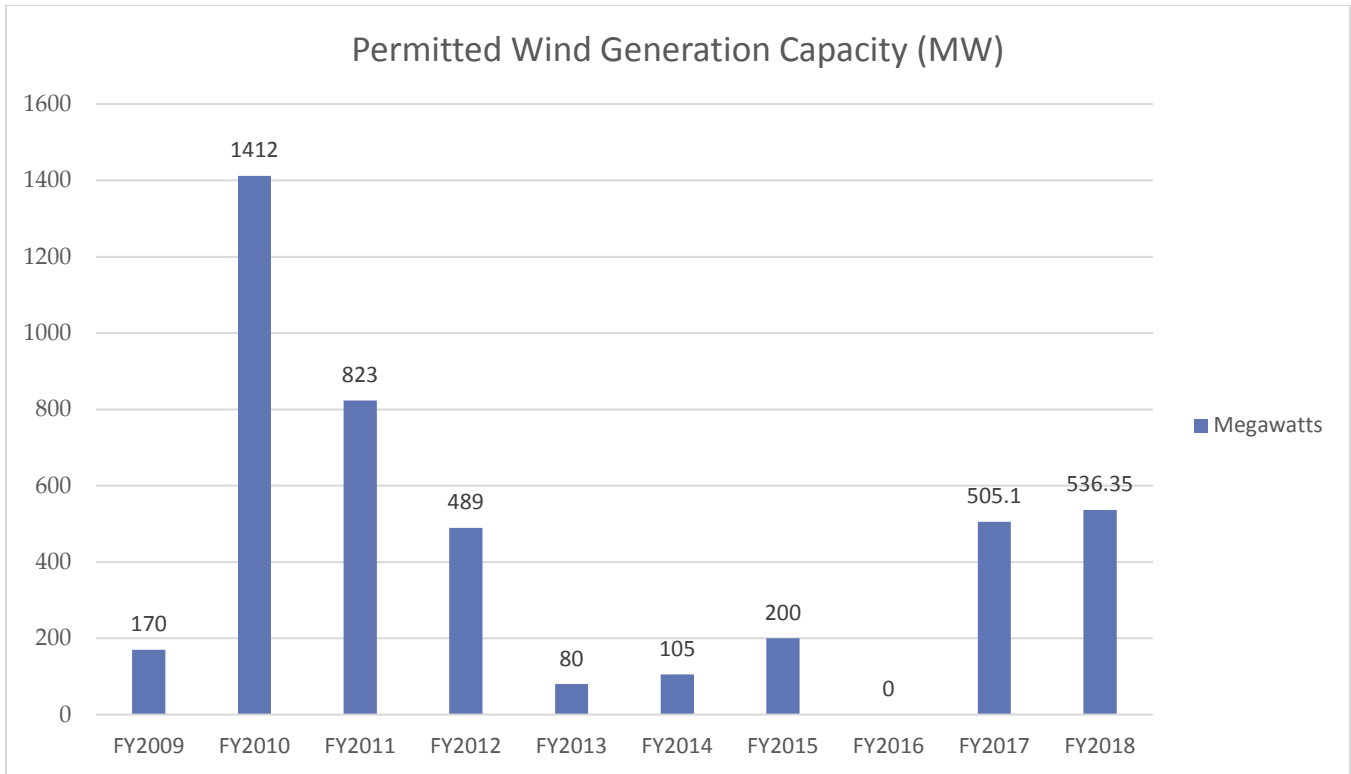
¹ FY 17: 16-327; FY 18: 17-322

² FY 17: 16-685, 16-656, 15-858; FY 18: 16-656, 15-137/14-916

³ FY 17: 16-686/16-215, 16-618; FY 18: 17-265, 17-410, 17-700

⁴ FY 17: 13-216; FY 18: 13-258, 13-294, *Amendments include repowering of wind facilities*

⁵ U.S. Department of Energy, WindExchange, <https://windexchange.energy.gov/states/mn> (retrieved 11/21/2018)



6

Program Activities

- 1) **Wind Farm Siting.** The number of wind farms (large wind energy conversion systems, LWECS) and total MW capacity permitted by the Commission has generally increased since FY 2016. This is after a few years of decline. In FY 2017, the Commission permitted two LWECS projects and one permit amendment. The Blazing Star 200 MW project, the Red Pine 200.1 MW project, and approved an amendment to the Stoneray 105 MW project.

In FY 2018, the Commission permitted three new projects and amended two permits for repowering. The new projects included: Palmer’s Creek 44.6 MW Wind Farm, the 84 MW Freeborn Wind Farm, and the 200 MW Blazing Star Wind Farm 2 project. The Commission also amended permits for two projects originally permitted in the late 1990s. These two projects were permitted to be repowered, or retrofitted, to use new more efficient and productive technology. The repowered permitted projects are the 100.5 MW Trimont Wind Farm and the 107.25 MW Lake Benton 1 Wind Farm. The Commission expects the development of wind projects to continue while the current federal tax credit remains authorized (it is currently set

⁶ Permitted Wind Generation Capacity FY 17/18 figures include repowered wind farm’s power production.



to phase out in 2021) and as utilities continue to add renewable energy sources to their energy generation portfolios to meet (and likely exceed) renewable energy generation targets.

Additionally, wind energy has become cost competitive with other sources of energy generation even without subsidies, and the Commission expects wind development will continue as an alternative source of electricity generation (even without mandates or targets). In the past few years, utilities have found that it is more economical to build a wind energy generating plant than to use fuel for existing natural gas fired units.⁷ Last, wind energy generation is likely going to remain in demand to help companies achieve corporate sustainability goals or as part of company power purchase agreement (PPA) hedging strategies (virtual PPAs).

Other areas of work related to wind farms include:

- a. Approval and use of updated wind site permit conditions
 - b. Commission Investigation into Wind Facility Decommissioning
 - c. Compilation of wind site data
- 2) **General Siting.** The Commission permitted three natural gas pipelines and one permit amendment in FY 2017-2018. In FY 2017, the Commission permitted the Fergus Falls Natural Gas Replacement Pipeline, the Black Dog Natural Gas Pipeline and the Rochester Natural Gas Pipeline. In FY 2018, the Commission approved an amendment the Black Dog Natural Gas Pipeline permit due to construction issues faced onsite relating to the horizontal directional drilling of the pipeline under Black Dog Lake.
- 3) **Transmission Line Routing.** Two transmission projects were permitted during FY 2017-2018. In FY 2017 the Commission permitted the MPL-LaPorte 115kV line. In FY 2018, the Commission permitted the 7 mile Freeborn Wind Farm 161 kV line, in conjunction with the Freeborn Wind Farm. Looking forward, future transmission projects in the permitting process include the approximately 50 mile Huntley-Wilmarth 345 kV line, the approximately 23 mile Dodge County Wind 345 kV line, the 7.5 mile Blazing Star 2 Wind Project 115 kV project, and the 13 mile Palisade 115 kV Transmission project.
- 4) **Petroleum Pipelines.** The Commission permitted one petroleum pipeline during FY 2017 and FY 2018. The Line 3 Pipeline Replacement project has been permitted. The Commission denied the petitions for reconsideration for the certificate of need and the route permit in 2018.

⁷ For example, see Commission Docket E002/RP-15-21, *In the Matter of Xcel Energy's Upper Midwest 2016-2030 Integrated Resource Plan*



- 5) **Rulemaking.** The Commission continues rulemaking for Minn. Rules Chapters 7849 and 7850. The Commission initiated rulemaking, held numerous stakeholder meetings to review the existing language and propose modifications, and staff drafted rule language. The Commission reviewed the draft language and directed staff to make some minor changes to the draft rules and then to go forward with preparing a Statement of Need and Reasonableness (SONAR), seek the required authorizations to publish, and then publish the draft rules. The purpose of the rulemaking is, among other things, to obtain greater clarity, eliminate obsolete provisions, and strive for better coordination within and between the certificate of need and the siting/routing permitting processes.

The Commission also considered a petition requesting that the Commission initiate a rulemaking to modify the rules for Large Wind Energy Conversion Systems (LWECS). The Commission received comments from utilities, wind developers, environmental organizations, other public interest organizations, and the general public. The Commission issued its Order Denying Petition in September of 2018. The Commission determined that it was not the proper time to consider amendments to its wind siting rules given its pending open rulemaking proceeding on power plant and transmission siting, the outcome of which would likely inform the scope and structure of any future wind siting rules. Also, there is not consensus on many issues that continue to be developed in individual cases, which provide a better forum for identifying and addressing project-specific issues. The Commission continues to refine its requirements for new wind site permits to incorporate evolving technology and information about wind turbines and their impact on communities and the environment.

Conclusions

The Commission concludes that the procedural model for the Power Plant Siting Act, and the corollary wind farm and pipeline siting acts, is reasonable and the Power Plant Siting Act is currently undergoing rulemaking efficiencies. The siting and routing of large energy facilities often creates significant public engagement, and the credibility of the Commission is critical in managing these proceedings. The Commission's process has fared well throughout even the most contentious projects. Work to improve efficiency, coordination, and transparency throughout the processes continues via rulemaking and updating standards when applicable. Based on the experiences of the past two years, and foreseeing the continued improvement of the process, the Power Plant Siting Act continues to be in the public interest.